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PUBLICATIONS

OF THE

SCOTTISH HISTORY SOCIETY

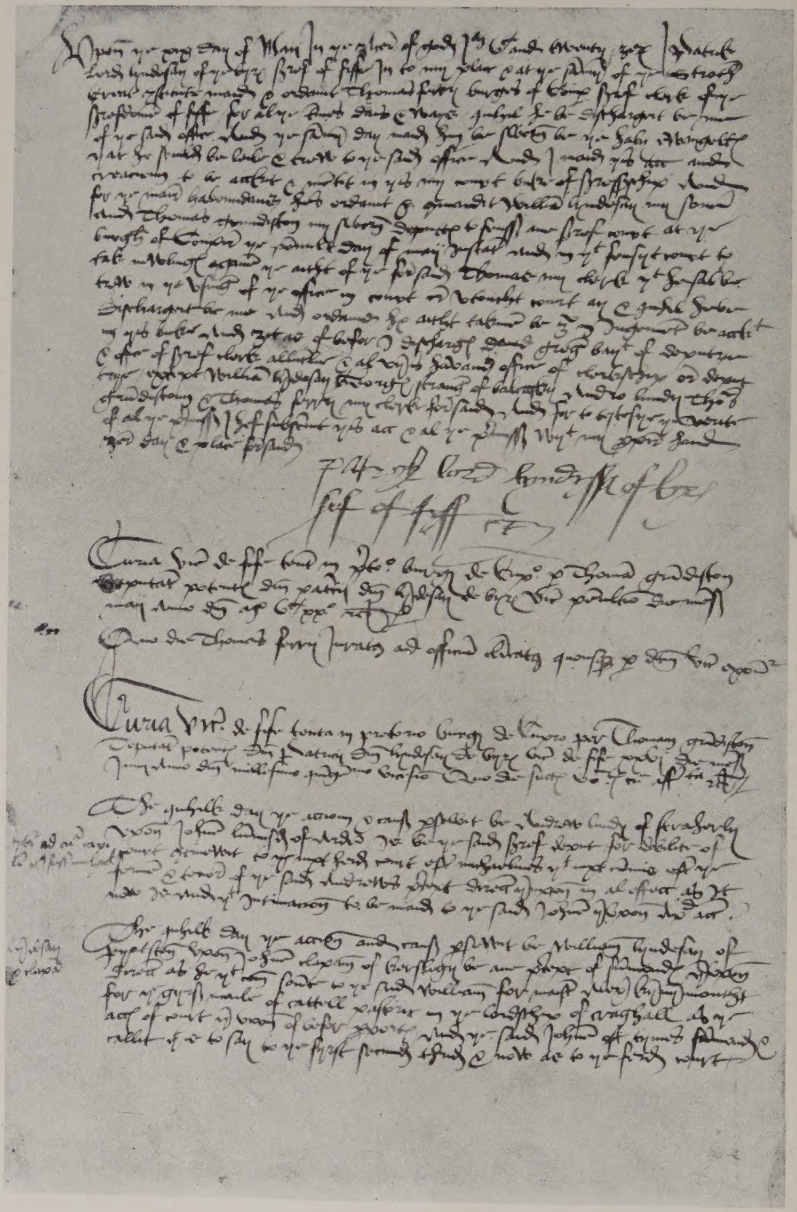
THIRD SERIES

VOLUME

XII

THE SHERIFF COURT BOOK OF FIFE

1928



SHERIFF COURT BOOK OF FIFE, 1515-1522

(folio 56 *verso*)

THE SHERIFF COURT BOOK OF FIFE

1515-1522

Transcribed and Edited, with an Introduction,
Notes, and Appendices, by
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M.A., Ph.D.

EDINBURGH
Printed at the University Press by T. and A. Constable Ltd.
for the Scottish History Society
1928

In that prouince is lykwyse the toune of Couper nocht of smal reputatione; quhair Juges he quha is Juge; and Schireffe of the cuntrey to his stile hes.

LESLEY, *Historie.*

Interius in media fere regione est Cuprum, quo reliqui Fifani ad jus accipiendum conveniunt.

BUCHANAN, *Rer. Hist. Scot.*

He that will to Cupar maun to Cupar.

Proverbial Saying.

Printed in Great Britain

PREFACE

DESPITE their acknowledged value little has been done in the way of printing the sheriff court records of Scotland. The two selections of cases from the Renfrewshire records, published by Mr. Hector in 1876 and 1878, are 'popular' in character and of comparatively late date; Dr. Littlejohn's edition of the Aberdeenshire records (*New Spalding Club*), though of great value, suffers from its abridgment into tables of contents and illustrative extracts; whilst the Dumfries Sheriff Court Book of 1537-38, printed by the late Sir Philip Hamilton-Grierson in the *Transactions of the Dumfriesshire and Galloway Natural History and Antiquarian Society, 1916-18*, is a book of six folios only. The present volume, which contains (from H.M. Register House) a complete record of the sheriff court of Fife for the years immediately following the disaster of Flodden,[1] may be said to be the first of its kind.

In editing the record my purpose has been to treat it solely as a document illustrating one aspect of Scottish administrative history. Throughout attention has been paid to the work of the sheriff and his officers and to the nature of the sheriff court. Nowhere have I attempted to trace lands and their ownership or to add detailed notes on the important men whose names occur from time to time. For the help of students of genealogy and topography, however, I have added two full indexes of persons and places, while in the latter index an endeavour has been

[1] Reference to a still earlier sheriff court book of Fife, containing record of a court held April 1514, is made on folio 26*r* of the volume here printed (*infra*, p. 68). Of this earlier book there is now no trace.

made to identify the place-names. It is worthy of note that many places now within the shire of Kinross came at this time within the jurisdiction of the sheriff of Fife.

The manuscript has been transcribed in as exact a manner as possible compatible with simplicity. A use of the apostrophe (') and the tilde (~) might have overcome some of the difficulties which have been encountered, but such a method was for different reasons undesirable. The following notes explain briefly the methods which have been employed :—

The superior *r* as in o^r has been rendered *our*.

The turned *m*, *n*, and *r* (*m*~, *n*~. *r*~) have been rendered *me*, *ne*, and *re*.

The superior *t*, as in w^t, has been rendered *with*, though in the latter part of the book the full spelling *witht*, used by the new clerk, has been followed in making extensions.

The medial pointed *u* (*v*) has been rendered *u* as in *Craufurde* ; the medial rounded *v* (*u*), as in *seruicium*, has been retained.[1]

The corrupt form *jaj* has been rendered *jm*.

y, as in y^e, has been rendered *th* (*the*).

3 for *g*, *gh* or *y* has been retained.

The initial *ff* has been rendered *F*.

The final *ss* presented considerable difficulty, since both clerks used the same form for *sis*, *se*, and *s*. As far as possible, extensions have been made in the same form throughout.

Capitals have been retained.

Omissions have been supplied in square brackets. Where the nature of the omission was not clear the words or letters supplied have been printed in italics.

[1] But see *Bulletin of the Institute of Historical Research*, ii. 63-65.

The arrangement of the text has been kept as closely to the original as the format of the publications of the Society would allow.

In citing evidence the registers and chartularies of religious houses, as printed by the various Clubs, are referred to by the names in vernacular form: thus, *St. Andrews* stands for *Liber Cartarum Prioratus Sancti Andree*, and *Dunfermline* for *Registrum de Dunfermelyn*. The following other abbreviations have been employed :—

A.D.C.	*Acta Dominorum Concilii*. (As from 25th March 1501 the references are to the MS. in the Register House.)
A.P.S.	Acts of the Parliaments of Scotland.
B.P.	Balfour's *Practicks* (Edinburgh, 1754).
D.V.S.	Skene's *De Verborum Significatione* (1681).
E.C.C.	*The Early English County Court*, by W. A. Morris (University of California Publications in History, 1926).
E.R.	Exchequer Rolls of Scotland.
L.A.R.	Littlejohn's *Records of the Sheriff Court of Aberdeenshire* (New Spalding Club).
L.C.	Lawrie's *Early Scottish Charters* (Glasgow, 1905).
R.M.S.	*Registrum Magni Sigilli Regum Scotorum*.
R.P.C.	Register of the Privy Council of Scotland.
R.S.S.	*Registrum Secreti Sigilli Regum Scotorum*.
S.H.R.	Scottish Historical Review.
T.A.	Accounts of the Lord High Treasurer of Scotland.

Although my interest in the sheriff court records of Scotland dates back to the days of my tenure of a research scholarship generously granted by the Carnegie Trust for the Universities of Scotland, the present volume includes the results of further research pursued during the last five years in the intervals of scanty leisure accorded to a university administrator. Many difficulties attend such research pursued intermittently over a long period

of time and at a distance from the necessary records, whilst even graver difficulties attend the path of the Englishman who ventures into the field of Scottish history. In endeavouring to surmount these difficulties I have made myself deeply indebted to Mr. A. O. Anderson, who has answered my innumerable questions, particularly in relation to the dating of early charters, and Mr. William Angus, Curator of the Historical Department, H.M. Register House, who has read all my proof sheets and made many valuable suggestions.

To Professor J. D. Mackie I owe my earliest knowledge of Scottish history and my first introduction to sheriff court records; to him I gratefully acknowledge the debt of every student to his teacher.

W. C. DICKINSON.

London School of Economics
and Political Science,
April 1928.

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INTRODUCTION

THE SHERIFF COURT

THE early sheriff court met at the King's castle of the sheriffdom.[1] The castle was the *caput vicecomitatus*: it was at once the seat of justice and the stronghold of the sheriff. The earliest evidence seems to point to a court at the castle-gate,[2] but in the well-known trial of Richard for the death of Adam the miller the King's bailies are recorded to have held their court '*in castro de Dumfres*' —a phrase indicative of some hall or building within the bailey of the *motte*.[3] And towards the end of the thirteenth century there is evidence of a transition from the gate to the hall. In the *Cambridge MS.* the Constable's court is to be held '*en la sale le Roi ou a la porte*,'[4] and in

[1] Similarly in England the early county court met at the castle or in the 'shire-hall' of the county, which was often within the castle. (*Eng. Hist. Rev.* xxxvi. 210-214; cf. *E.C.C.* 151, No. 3.) Bracton refers to 'the castle' as though it were the customary meeting-place of the county court. *De Legibus* (Rolls Series), v. 360.

[2] Cf. the early enactment that if a castellan wrong a burgess the burgess shall seek redress at the castle gate. (*A.P.S.* i. 341, c. 46). As late as 1476 there is record of a regality justice-ayr '*tenta in porta anteriori castri de Dalkeith.*' (*Reg. Hon. Morton*, ii. No. 229.) In England, in 1226, a man stood all day by the castle-gate at Oxford awaiting the appearance of his opponent in the case. (*Bracton's Note Book*, No. 212.) Justice at the gate, the *dyra domr*, and courts held at the door of the lord are well known. (Cf. *Eng. Hist. Rev.* xii. 489-492; *Borough Customs*, Selden Soc., ii. xvi *n.*) In 1479 the bailies of Peebles held a court 'apon the dwrthreswald' of the defendant (*Peebles Records*, Burgh Rec. Soc., i. 184). The phrase 'The Sublime Porte' originated in a similar manner.

[3] *A.P.S.* i. 97; Bain's *Calendar*, i. 2176. This trial is generally dated 1232 × 1259. For the structure of Dumfries castle see *Commission on Ancient and Historical Monuments of Scotland*, Dumfries Report, 49-51.

[4] *Scot. Hist. Soc. Misc.* ii. 34. It must be remembered, however, that this document 'is better evidence of English intentions than of Scottish tradition.'

the earliest sheriffs' accounts there are many references to the construction of *aulæ* within castles.[1] Following the construction of an *aula* the court would be held therein.[2]

The position of the castle as legal *caput* of the sheriffdom [3] accounts for the frequency of later courts upon *motte-hills*, *mote-hills* or *mute-hills*. The castle might fall into ruin with the lapse of time, or a new castle of improved type might be built apart from the old; but the old castle-mound, the *motte*, still retained its legal status, and there in the open air the sheriffs in many cases still continued to serve the brieves from the King's Chancery and to hold their courts.[4] This can be traced in many sheriffdoms. In Aberdeen, in 1299, John Comyn, Earl of Buchan, held a justiciar's court '*iuxta castrum de Abirden in loco qui dicitur Castelsyd*,' [5] and as late as 1539 a head court of the burgh was held in the open air on the castle-hill.[6] In Inverness, in 1414, an inquest returning Donald, Thane of Cawdor, as heir to his father Andrew, Thane of Cawdor, was held '*apud montem castri de Inuernys*.' [7] In Cromarty, in 1475, an inquest found that William Urquhart, late sheriff of Cromarty, died seised of the barony of Cromarty

[1] *E.R.* i. 14, 18, etc. In some cases the cost is so small as to point rather to the adaptation of buildings already erected than to new constructions.

[2] In 1436 we find a court held '*in aula castri de Narryn*.' (*Thanes of Cawdor*, 13.)

[3] Similarly in Normandy the castle was the legal *caput* (Powicke, *Loss of Normandy*, 271 *n.*); the *vicomte* held the castle '*quia vicecomes erat eiusdem patrie*.' (Haskins, *Norman Institutions*, 46 *n.*) In England a like rule was understood though the paid *custos* might at any time intervene.

[4] The argument has been admirably stated by the late Dr. Neilson in 'The Motes in Norman Scotland' (*Scottish Review*, Paisley, vol. xxxii.). See also *Commission on Ancient and Historical Monuments of Scotland*, Wigtown Report, xxxiii., and Riddell, *Peerage and Consistorial Law* (1842), i. 91-94, 109-110. Admittedly it is difficult in some cases to distinguish between derivation from A.S. *mòt* and from O.F. *motte*.

[5] *Vetus Arbroath*, No. [231].

[6] Aberdeen Council Register, xvi. 211, cited in *Spalding Club Misc.* ii. Intro. l, Note.

[7] *Thanes of Cawdor*, 5.

and 'of the Mot Hyll and sheriffschip thereof.'[1] In Banff, in 1493 and 1506, the sheriff court was held on the castle-hill of Banff,[2] and in 1615 the Countess of Buchan was retoured as heir to '*castro de Bamff cum Castlehill;—officiis coronatoris et vicecomitis de Bamff etc.*'[3] In Forfar, in 1452, a sheriff court of Forfar was held '*apud montem castri de Monros*,'[4] whilst in Fife itself Sir John Erskine protested, in 1400, against the legality of a court held by the Duke of Albany '*sedens apud montem qui vocatur Camehill de Cupro in Fyff.*'[5] Although this latter court was not held by the sheriff of Fife, both Sibbald[6] and Chalmers,[7] without citing any authority, state that prior to the sixteenth century the sheriff court of Fife was held on the *camhill* or *moothill* of Cupar,[8] and, since Cupar possessed a tolbooth in which justice was administered certainly as early as 1478,[9] any court subsequently held on the moothill must have been held there as at the old legal *caput*.[10]

In the *Assise Regis David I.* it was laid down that the

[1] Fraser's *Earls of Cromarty*, ii. p. 449. Similarly compare *Retours*, Ross and Cromarty, Supp. No. 176.

[2] Fraser's *Wemyss*, i. 95; *Antiq. Abdn. and Banff*, iii. 581.

[3] *Retours*, Banff, No. 36. Cf. also *ibid.* No. 40, and *E.R.* xiv. 607. Similarly cf. Elgin and Forres and the castle-hill of Forres in *T.A.* i. 316.

[4] Fraser's *Melvilles*, iii. p. 35. [5] Fraser's *Wemyss*, ii. No. 31.

[6] *History of Fife and Kinross* (1803), 238.

[7] *Caledonia*, vii. 119. Obviously following Sibbald.

[8] Cf. the *mons placiti burgi de Cupro* in *E.R.* xiv. 601.

[9] A justice-ayr was held there in that year. *A.P.S.* ii. 117*a*.

[10] There are records of sheriff courts held in the tolbooth of Cupar in 1505 and 1508. (Fraser's *Wemyss*, ii. Nos. 81, 83.) Seignorial courts were similarly held on the castle-hill. Cf. the entry '*Villas et terras de Pittgair et Arbales, cum molendino de Pittgair et libertatibus eiusdem;—castrum et castri montem de Pittgair, comprehendentem pendiculum hujusmodi vocatum Headtoune de Pittgair etc.*' (*Retours*, Banff, Nos. 143, 162), and see the interesting precept of 1587 printed in Reid, *Regality of Kirriemuir*, (1909), 29. Mr. Angus has called my attention to a charter of 1442 in which George Leslie of Fythkil as grantor of the lands of Foulismowate expressly reserved to himself '*summitas montis ex parte boriali messuagii dictarum terrarum pro curiis nostris tenendis.*' (Miscellaneous Transcripts, Register House.)

King's pleas of each sheriffdom should be held 'wythin xl dayis,'[1] and similarly in the *Assise Regis Willelmi* that 'at the hed of ilke xl dayis ilke schiref sal hald his mutis.'[2] This period of 'forty days,' or six weeks,[3] whilst possibly constituting the period of summons,[4] was more probably the interval between meetings of the court, since at that time the county courts of northern England, including Northumberland, were held at a similar interval of time.[5] But there is no evidence to test the observance or non-observance of the rule; whilst at a later period the evidence shows that intervals between court meetings were everywhere irregular.[6]

Before long, however, a distinction was drawn between 'head courts,' which were held thrice annually,[7] and the remaining lesser or intermediate courts. The head courts, or *curiæ capitales*, were, as the name implies, courts held at the head (*caput*) of the sheriffdom. They were full courts of the sheriffdom. They alone contained the full complement of suitors,[8] and over them the sheriff was expected to preside in person.[9] Cases were continued to

[1] *A.P.S.* i. 322, c. 25.

[2] *A.P.S.* i. 377, c. 19. Similarly the *Regiam Majestatem* in one of the few chapters not borrowed direct from Glanvil. (*A.P.S.* i. 634, c. 13.)

[3] Cf. the wording of the final clause of the chapter in *Ass. Reg. Will.* c. 19. See also the articles by J. J. Alexander in *Eng. Hist. Rev.*, xl. 1-12, and *Bulletin of the Institute of Historical Research*, iii. 89-95.

[4] Cf. *S.H.R.* xviii. 158 ff. [5] Alexander, *loc. cit.*; *E.C.C.* 90-92, 94-96.

[6] The three 1495 sheriff courts of Forfarshire recorded in *Nigrum Arbroath* (No. 354) were all held on a Saturday and conform to a four-week rule. But I know of no similar case, and the court may have held other meetings for other cases which did not interest the compilers of the register.

[7] The three head courts of the burgh are referred to in *Leg. Quat. Burg.* c. 40 (*A.P.S.* i. 340). This code has been dated as early as 1124 × 1153 and as late as *c.* 1270 (see *S.H.R.* xxi. 193-206). Presumably the head courts of the sheriff were established at an equally early date. They are referred to in *Quon. Attach.* c. 5 (*A.P.S.* i. 648)—a collection probably of the latter half of the fourteenth century (*A.P.S.* i. 49).

[8] The presence of the full complement of suitors must not lead to confusion in the interpretation of the phrase '*in plena curia*.' (See *infra*, App. II.)

[9] For the sheriff's presence at head courts see *infra*, p. xxi.

the head courts from the intermediate courts for the benefit to be derived from this fuller attendance of suitors and the actual presence of the sheriff[1]; in them the more important business was transacted.[2]

The three head courts were those of Yule, Pasch. and Michaelmas, and in the sixteenth century these courts followed a definite rule. The Yule head court met on the first Tuesday after Epiphany, the Pasch head court on the second Tuesday after Easter Day, and the Michaelmas head court on the first Tuesday after Michaelmas.[3] When this rule was established it is difficult to say. The courts of the sheriff of Inverness held 6th October 1383 and 1st October 1398 both conform to it,[4] and in 1450 the meeting of the Michaelmas head court was regarded as a definite date which could be used in calculating the sittings of the Chancellor and Three Estates.[5] The rule was observed with regularity in the Aberdeenshire courts of the sixteenth century,[6] and can be traced in the present record.[7] On the other hand, it was not observed in the Ayr sheriff court 1515-1520.[8] Later, Mackenzie's reference points to general application.[9]

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[1] Cf. *L.A.R.* i. 51, 52.

[2] In many respects the 'head court' corresponds with the English bi-annual 'great' or 'general county.' In view of the immediately following text, however, it must be remembered that the recorded dates of the English *comitatus generalis* occur at different times of the year for different counties. See *Eng. Hist. Rev.* xxxix. 401.

[3] Reading *Monday* for *Tuesday* the same rule was observed for the burgh head courts.

[4] *Moray*, Nos. 164, 165, 179, 180.

[5] *A.P.S.* ii. 34, c. 5.

[6] See the Tables of Contents in *L.A.R. passim.*

[7] The Michaelmas head court of 1515 is omitted. To follow the rule the Pasch head court of 1519 should have met on 3rd May and not on 4th May, whilst the Pasch head court of 1515 should have met on 17th April instead of on the 14th.

[8] MS. Ayr Sheriff Court Book (Register House). This book, which is a very scanty record, contains entries for the head courts only.

[9] *Observations on the Acts of Parliament* (1686), 138, Act 71. Mackenzie gives these days as follows: 'The first is upon the first *Tuesday* after the fourteenth of *January*, which is the first *Tuesday* after the twelfth day of *Yule*:

The designation *curiæ capitales* given to the three head courts would seem to indicate that the lesser or intermediate courts were errant in nature and held, not at the *caput*, but in the different localities of the sheriffdom. And such evidence as we possess points in the same direction. David of Wemyss, sheriff of Fife, accounting for the years 1343-1359, states '*Et nihil hic de exitibus itineris computantis per tempus compoti, quia nihil cecidit*'[1]; whilst in the account of the sheriff of Roxburgh rendered at the same time the wording is '*de exitibus itineris vicecomitis per tempus compoti.*'[2] In 1400 there is record of a Fife sheriff court held at Crail,[3] and evidently courts were commonly held there since in 1387-1388 the lands of East Ballingry were held '*pro secta facienda apud carrale de terra de Kilrynny.*'[4] It might be urged that such suit referred to the 'constabulary courts' held within the constabulary of Crail under the sheriff of Fife; but no such argument can be adduced in the case of Falkland, where intermediate courts were undoubtedly held. In 1479 the Lords Auditors decreed 'that thomas simson schiref of fif sall furthwith Restore and deliuer again to Alex^{r} seytoun of perbroith iij oxin and uther gudes takin be him fra the said Alex^{r} for certain unlawis for falt of apperance to the schiref courtis haldin At faukland quhare he aw bot thre sutis at the schiref courtis haldin [in] the burgh of coupir.'[5] Here the 'three suits at the sheriff courts held at Cupar' obviously refer to the three head courts,[6] and thus the courts held at Falkland must have been intermediate courts held upon some system of distributive justice in the

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The second court is upon the first *Tuesday* after *Law-Sunday*: The third is upon the first *Tuesday* after the twenty-ninth of *September*, which is *Michaelmas Day*.' His definition of the Yule head court is undoubtedly erroneous, whilst 'Law-Sunday' seems to be a corruption of 'Low Sunday' (*pascha clausum*).

[1] *E.R.* i. 561.
[2] *E.R.* i. 568.
[3] Fraser's *Wemyss*, ii. No. 27.
[4] *E.R.* iii. 165-166.
[5] *Act. Dom. Aud.* 77.
[6] Cf. *R.M.S.* ii. 3756.

localities. In the Dumfries Sheriff Court Book, 1537-38, it is noticeable that all courts, with the exception of the Michaelmas head court (which was held at the *caput*, Dumfries),[1] were held at Penpont, whilst in the Aberdeen records of the beginning of the sixteenth century there are references to courts held at Drumblade, Wardhouse, Muirland of Bourty, Furd of Sleoch, and Auchentoull, all duly constituted sheriff courts to which barons and freeholders owed the customary service.[2] The general proclamation relating to suit of court, issued in 1502, seems to indicate that courts were held elsewhere than at 'the principal court place of the schire,' [3] while the division of many sheriffdoms into 'quarters,' each under a mair,[4] is probably part of the administrative machinery for an ambulatory system of justice.

In the charter of James IV. granting the office of heritable sheriff of Inverness to Alexander, Earl of Huntly, distributive justice over the wide area of that sheriffdom was recognised. By his charter the sheriff was given power to appoint deputes for certain divisions—one to hold his court at Kingusie for the district of Badenoch, one at Inverlochy for the district of Lochaber, one at Tain or Dingwall for Ross, and one at Wick for Caithness.[5] This was probably a late definition of what had been earlier an accepted practice. That it would be convenient to hold courts elsewhere than at the *caput* is obvious, and in Lanarkshire this was realised where courts were held at

[1] That the head courts were fixed at Dumfries is clear from the charter printed in *A.P.S.* ii. 193, No. 11.

[2] *L.A.R.* i. 12, 19, 31, 66. Absent suitors were fined at Drumblade, and the court held at the Muirland of Bourty was deferred because no barons were present.

[3] *A.D.C.* xi. f. 138*v*. Printed in *B.P.* 276, c. 24; *R.S.S.* i. 801.

[4] See *infra*, pp. lxiii-lxiv.

[5] *R.M.S.* ii. 3286. Cf. also the arrangements made for the sheriff courts for Ross and Caithness in 1503/4. (*A.P.S.* ii. 241, 242.)

Lanark and at Hamilton for the two 'wards' into which the sheriffdom was divided.[1]

In the absence of public buildings, courts would of necessity be held in the open air [2]; generally, for obvious reasons, they were held at well-known landmarks.[3] In February 1558 the Aberdeen sheriff-deputes held a court '*apud lie Standing Stanis de Huntlie*,'[4] which is a late survival of old custom,[5] whilst the court held by them at the Furd of Sleoch (Sliach) was possibly a survival of courts held at bridges.[6] Not infrequently churches were pressed into service despite the ordinance which forbade any secular plea to be held in church, churchyard, or other sacred place.[7] When Sir Alexander Ramsay, the newly-created

[1] *Maitland's Description of Lanark and Renfrew* (Maitland Club), pp. 1-2. See also Morison's *Dictionary*, 3104 (*Earl of Hyndford* v. *Burgh of Hamilton*).

Apart from the ordinary courts, cases of cognition were frequently held '*super fundum debatabilem*.' (Cf. *infra*, pp. 32, 268-269.) It may be doubted, however, whether any similar interpretation could cover the Fife courts held, for example, '*apud lie Welhill prope Lucheris*' (*R.M.S.* ii. 2589), at Seres (*infra*, p. 20), and at Kettle (*Dunfermline*, No. 379).

[2] Similarly in England. Cf. *E.C.C.* 149.

[3] Some well-defined place would be necessary to ensure the attendance of those summoned. Burchard states that after the general idea of an assembly-peace there comes the idea of associating assembly-peace with some special place, and thus there springs up the permanent local-peace to be seen in the trees, standing stones, etc., under which courts were customarily held. *Die Hegung der deutschen Gerichte* (Leipzig, 1893), 40-41.

[4] *L.A.R.* i. 153.

[5] These 'Druids' Circles' or 'Standing Stones' frequently marked the meeting places of courts, both royal and baronial. Cf. the courts '*apud stantes lapides de Rane en le Garuiach*' (*Aberdeen*, i. 80); '*apud le standand stanys de le Rathe de Kyngucy estir*' (*Moray*, No. 159); '*apud lapidem de Mygveth in Cromarr*' (*Antiq. Abdn. and Banff*, iv. 716); '*apud lie Gray Stane de Cluny*' (*ibid.* iv. 404); and '*apud Dul in atholia iuxta unam magnam petram*' (*St. Andrews*, 349).

[6] *L.A.R.* i. 12. (Cf. *Kelso*, No. 218 and *Moray*, No. 182.) The regality court of Spynie was sometimes held 'upon the Water Syd of Lossie,' almost certainly for ease in drowning the condemned. (*Spalding Club Misc.* ii. 132, 134.)

[7] *Frag. Coll.* c. 20 (*A.P.S.* i. 752). See also *Aberdeen*, ii. 14, xxix, and Hailes, *Canons of the Church of Scotland* (1769), 46. Probably these were borrowed from the Sarum Constitutions of 1223 (Wilkins' *Concilia*, i. 600). But the canons were not even obeyed by the churchmen themselves. (Cf. *Moray*, pp. 475-476.)

sheriff of Teviotdale (Roxburgh), was surprised and captured on the seat of justice by Sir William Douglas of Liddesdale he was apparently holding his court in the church of Hawick,[1] whilst even at the very end of the sixteenth century the regality court of Spynie was held regularly in the 'Cathedral Kirk of Murray.'[2] Courts held in churchyards are frequent, and there is record of a court held in the churchyard of Katyl (Kettle) in 1340 by David of Wemyss, sheriff of Fife.[3]

The castle soon yielded pride of place to the burgh which had grown up beneath its walls, and by interpretation the burgh became the *caput* of the sheriffdom. By the latter half of the fifteenth century most of the Scottish burghs had erected their tolbooths, and with the sixteenth century there are only isolated exceptions to the rule that all courts, head and intermediate, were held in the tolbooth of the head burgh of the shire,[4] which likewise did service as the common prison.[5] In the present record many of the

[1] Aikman's *Buchanan* (1827), ii. 29.

[2] *Spalding Club Misc.* ii. 119 ff. In the Fife Sheriff Court Records of the latter half of the sixteenth century the arbiters appointed in Decrees Arbitral appear invariably to have met in some church, whilst it was in churches that notaries transacted the major portion of their work. The posting of public notices on church doors to-day is, in part, a survival of this old legal connection.

[3] *Dunfermline*, No. 379.

[4] The Banff sheriff court was held in a private house until 1549, when a tolbooth was built. In 1575 the roof of the tolbooth fell in, and during rebuilding the court was again held in a private house. (*Annals of Banff* (New Spalding Club), 23, 26.) Later, an Act of Parliament seems to have been necessary to change the *caput*. Cf. the Act of 1600 changing the court-place of the sheriffdom of Kincardine from Kincardine to Stanehyve, the arguments for the change being that there was not 'ane tolbuth nor ony houssis to pairteis to ludge into' at Kincardine, and that it was inconvenient to the lieges since it was not 'in the middis of the schire.' (*A.P.S.* iv. 246, c. 51; 374, c. 10.) Similarly in England the meeting place of the early county court could apparently only be changed with the consent of the King. (*E.C.C.* 92-93.)

[5] In 1592 there was no tolbooth at Clackmannan: the court was held at the market cross in the open air and prisoners were warded in the sheriff's house. (*A.P.S.* iii. 582, c. 83.) In the Fife Sheriff Court Records (MS. Cupar-Fife) of 13 July 1575 and 28 January 1576 we find references to the warding of prisoners in the tolbooth of Cupar.

entries seem to show that the tolbooth of Cupar was then reached by an outside stair or *forestair*, or, failing that, that the court was held in an upstairs room. Thus, general announcements were made at the tolbooth stair,[1] and frequently animals in dispute were brought to the tolbooth stair or to the tolbooth door[2]; in some instances animals were probably brought into the court-room itself.[3]

In the early part of the sixteenth century there appears to have been some kind of approximation to the old court interval of four or six weeks[4]; but the approximation was soon lost, and whilst the head courts were still held on definite days no day-rule or interval-rule for the intermediate courts was observed.[5] It is clear, however, that the officials knew when succeeding courts would be held, for they are frequently referred to by date, in some cases as far as eight or nine weeks ahead,[6] and it would appear as though these dates were arbitrarily fixed to suit the convenience of the court, though we have no record of such procedure.[7] Sometimes, for criminal cases, additional courts were held *ad hoc*.[8]

At first each court seems to have sat for one day only,[9] but later in the sixteenth century the sittings extend over

[1] *Infra*, pp. 37, 56.

[2] *Infra*, pp. 209, 217.

[3] *Infra*, pp. 62, 191, 222. (Cf. *A.P.S.* i. 470, c. 12.)

[4] Cf. *L.A.R.* i. 5-46.

[5] The recorded days in the present volume are: Tuesdays 63; Wednesdays 12; Saturdays 12; Thursdays 9; Fridays 9; Mondays 4. By far the greater number of courts, it will be noticed, were held on Tuesdays—probably in an endeavour to apply to the intermediate courts the rule for the head courts already cited. Perhaps in earlier times for which we have no record all courts met on a definite day (Tuesday?), as was the case in England. (Cf. *E.C.C.* 91.)

[6] *Infra*, pp. 34, 41.

[7] Sometimes a case was continued to a day on which no court was held (see *infra*, pp. 286: 13, 314-315), and in such cases the action 'fell asleep.' (Cf. *L.A.R.* i. 181.)

[8] Cf. *infra*, pp. 130, 209-211. In the latter instance it is clearly stated that the next court would be held on the last day of April, but a special court was held on the 26th April to try a thief.

[9] Similarly in England. Cf. *E.C.C.* 91, 95.

two and even three days, whilst the number of meetings steadily increases and eventually finds a rule.[1]

The sheriff's presence upon the judicial bench was probably a matter of his own choice; he could hold the court either personally or through his deputes.[2] But the burden of judicial duties, as even the present record shows,[3] moved gradually on to the shoulders of the deputes, and although an Act of 1540 enjoined that the sheriff-principal had to be present at the head courts in person unless he could plead sickness or the King's service,[4] the evidence of the records of the latter half of the sixteenth century shows clearly that the sheriff was generally content to appear only at the important Michaelmas head court when the yearly appointments of officials were usually made.[5] There is evidence, however, that though absent from the court the sheriff-principal still kept a watchful eye over

[1] MS. Sheriff Court Books of Fife (Cupar-Fife). In 1575 the court sits regularly every Wednesday and Saturday, and these become definite days for the court. In Aberdeen a rule is not reached until 1629, when court meetings are fixed twice a week, on Wednesdays and Fridays (*L.A.R.* ii. 333), and in the same year the sheriff court of Lothian is stated to sit twice a week on the same days. (*Hist. MSS. Comm.*, 13th Report, App. vii. p. 83.)

[2] In the present record Patrick Lord Lindsay of the Byres and Sir John Lindsay of Pitcruvie (his son), conjoint sheriffs-principal, sit on 5 head courts and 8 intermediate courts; Patrick Lord Lindsay, acting *divisim*, sits on 6 head courts and 9 intermediate; and Sir John Lindsay, acting *divisim*, on 8 head courts and 27 intermediate. The remaining 8 head courts and 51 intermediate courts are presided over by deputes. It is worthy of notice, however, that in the court of 10 February 1518/19, although the sheriff-principal and three deputes appear in the *sederunt*, two of the deputes sat on the jury (*infra*, pp. 130-131).

[3] Taking the 43 courts recorded from 4 October 1519, it is noticeable that the two sheriffs-principal sit *conjunctim* on 2 head courts, and Sir John Lindsay sits *divisim* on 1 intermediate court, whilst the remaining 40 courts, both intermediate and head, are presided over by the deputes.

[4] *A.P.S.* ii. 358, c. 6.

[5] MS. Sheriff Court Books of Fife (Cupar-Fife). Sometimes he did not even appear at the Michaelmas head court. In 1576 the sheriff-principal was absent from the Fife Michaelmas head court, and the procurator-fiscal produced a commission from him authorising him to receive the oaths of the deputes, clerk, dempster, and other officers.

his subordinates and at times influenced their decisions. In 1557 the sheriff-depute of Aberdeenshire was 'ripely advised and at the command of ane writin of the Shref principallis subscrivit witht his awin hand' repelled the defences,[1] and in 1559 in the same record the deputes 'continewit the precept . . . be vertew of thar office at command of the Sref principall.'[2] Such later Aberdeenshire entries as 'without quhais aduyse directioun and command nane of his deputis wil nor dar proceid in ony actioun dependand afoir thame,'[3] and 'his depuittis dois no thing in ony actione persewit afoir thame bot as he commandis thame,'[4] indicate an influence and supervision probably too close for impartial justice. In two instances in the present record we find the deputes receiving the depositions of witnesses and enclosing them 'to be presented to my lord sheriff principal,' who thereafter 'decreed and gave deliverance,' although there is no record of the presence of either sheriff-principal at the court.[5]

At certain periods of the year known as 'vacance' or 'feriate,' no courts were held.[6] A thirteenth-century *Statutum Ecclesie Scoticane* lays down '*Statuimus etiam quod de cetero placita secularia in diebus dominicis ac in aliis festiuitatibus solempnibus minime teneantur*,'[7] and although courts can be shown to have been held on both Sundays[8] and other feast days, the immunity of certain periods, for example Easter,[9] was strictly enforced. Of a different

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[1] *L.A.R.* i. 131.
[2] *Ibid.* i. 155.
[3] *Ibid.* i. 320.
[4] *Ibid.* i. 323.
[5] *Infra*, pp. 230, 232.
[6] Feriat-time was not observed in criminal cases '*quia periculum est in mora.*' (Mackenzie, *Matters Criminal*, II. xii. 2.)
[7] *Aberdeen*, ii. 14, xxix.
[8] Similarly in England. (Cf. *E.C.C.* 91 *n.*)
[9] Cf. the two cases of courts in Passion Week in *Act. Dom. Aud.* 16a, and Fraser's *Melvilles*, iii. 112-115. It is to be noted, however, that in the case *Moncrieff* v. *Ramsay and Gray* (*infra*, p. 170), whilst an exception was raised that the summons had been executed 'upone munnunday eftir palme sonday as he

nature were the 'feriate days' observed during the sitting of the justice-ayr within the sheriffdom,[1] during the holding of a 'day of trew' in the border sheriffdoms,[2] and during the sitting of the High Court of Parliament.[3] In such cases the *vacance* was that of a lower court yielding place to a higher.[4] At the justice-ayr the sheriff and the majority of the barons and freeholders of the shire had to be present in person, and at days of trew a like rule applied to the sheriffs and barons of all the neighbouring sheriffdoms. Parliament was considered a court both of appeal and of first instance, to which, by theory, all freeholders were obliged to give suit and presence as to the King's baron court. Lower courts accordingly were not allowed to meet during the session of Parliament, and, later, when it became customary to prorogue Parliament for considerable periods, it was necessary to pass Acts to authorise the holding of the 'ordinary courts' while a Parliament was in being.[5]

For the sheriff court the 'harvest vacance' was the most important, and this was doubtless designed in order

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said in feriat tyme,' the exception was repelled because 'It hes bene the wsse & consuetud of the Realme to execute summondis In diuers causes eftir palmesonday.' The rule here seems to be that *feriat* only applies to the actual sitting of the court.

[1] Cf. *L.A.R.* i. 264. Similarly in England. (Morris, *Medieval English Sheriff*, 208-210; *Eyre of Kent* (Selden Soc.), i. 7, 25.)

[2] *R.P.C.* (1st Series), ii. 357.

[3] *Infra*, p. 270. Cf. 'My lord of huntlie askit Instrumentis that the schireff of court of [*blank*] wes sett to this samin day & In the samin place & In the Instant houre of this court of parliament quhilk Is now fensit and nocht continewit.' (*A.P.S.* ii. 352 *b*.)

[4] In the *Assise Regis Willelmi* it was laid down that when the King came to any province the judges of that province ought to come to him the very first night and stay with his court until he left the province unless he gave licence otherwise. (*A.P.S.* i. 379, c. 26.)

[5] Rait, *Parliaments of Scotland*, 452. (Cf. *A.P.S.* ii. 423 *b*, 447 *b*.) This rule was, upon one occasion at least, applied even to the Court of Session, which, as Professor Hannay has shown, was evolved from the earlier parliamentary judicial committees. (*Ibid.* 473.)

to free the members of court for the ingathering of the crops. The vacance appears to have run from the first week of August to the sitting of the Michaelmas head court; but, since the harvest was generally not gathered until September, the sheriff courts frequently extended their sittings (upon dispensation) throughout the greater part of August, and sometimes even into September.[1] Later, the practice grew up of counting the vacance in the sheriff court as contemporaneous with that of the Court of Session,[2] though after a head court, which was ruled by definite dates, and which might fall within the Session's vacance, no dispensation was deemed necessary.[3] Dispensation to hold courts during time of vacance was obtained by letters of dispensation issued by the Lords of Council in the name of the King.[4] The harvest vacance, however, could apparently be 'admitted' by both parties, and such an admission precluded any subsequent appeal against the legality of the court.[5]

The court was held upon fifteen days' warning,[6] and probably opened at the hour of 11 A.M.[7] Its members

[1] 'And it is of veritie thar wil be na hervest befoir the first day of September nixtocum Oure will is, etc.' (*L.A.R.* i. 290.) The feriat time of harvest is first referred to in the present record in 1518 (*infra*, pp. 108-109), though in 1515, 1516, and 1517 there are courts running throughout August and into the first week of September. The first reference seems to indicate that any court held after July will be held in feriat time, and other references to the feriat show it in being on 14 August (p. 113), 7 September (p. 114), and 17 September (p. 224).

[2] These vacances were altered from time to time. (See *A.P.S.* xii. Index, s.v. *Vacation*.)

[3] Morison's *Dictionary*, 7497 (*Wardlaw* v. *Wardlaw*).

[4] *Infra*, pp. 224, 270; *L.A.R.* i. 289-290.

[5] *Infra*, pp. 108-109, 114-115.

[6] *Infra*, p. 268; and see *A.P.S.* ii. 19, c. 21; 358, c. 7; *R.M.S.* iv. 2386; *R.P.C.* (1st Series), ii. 666.

[7] The Act of 1587 speaks of the custom 'obseruit of auld viz at ellevin houris befoir none' (*A.P.S.* iii. 460 *b*); but see Mackenzie's *Observations* (1686), 252, Act 86. Craig also refers to the eleven o'clock rule. (*Jus Feudale*, III. ii. 18.) In 1576 we find a juror arriving at the Fife Sheriff Court 'sone eftir allewin houris afore none the said day and schortlie eftir that the said Thomas

consisted of all barons, knights and freeholders within the royalty of the shire, and representatives of the bishops, abbots and earls who held lands therein. If the court was weak through the paucity of attendance then the sheriff could warn 'the gentlemen of the regality' [1] to attend to strengthen his court without prejudice to their regality [2]; but recourse to the expedient does not appear to have been made, owing doubtless to the strength of the regalities.

In the present record there are many references to courts continued for 'debilite.' Sometimes certain actions only are continued for this reason [3]: sometimes all actions [4]: and in 1521 even a head court is so continued.[5] 'Debility' and 'paucity of attendance,' however, can have rested upon no numerical significance. Thus, in May 1519, at a head court with a very small list of absent suitors and a jury of important lairds, a case was continued for 'debility' [6]; in January 1521/22, again at a head court with a jury of important lairds, a case was continued for the same reason [7]; and in June 1518 'all actions of party' were continued for 'debility' although a jury of thirteen had been empanelled to carry out an apprising.[8] 'Debility of court,' therefore, can only be interpreted as the absence of particular suitors, probably those who had peculiar knowledge of the cases so continued or who were qualified in some other way,[9] since the necessary officers and members

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haid bene callit to haif comperit this day in the said tolbuith.' (MS. Fife Sheriff Court Books, Cupar-Fife, 9 May 1576.) The frequent references to the 'houre of cause' probably only refer to the actual calling of the case.

[1] The regality, or lands held in regality, did not come under the jurisdiction of the sheriff. The sheriff's authority and that of his court was limited to the 'royalty,' which might roughly be defined as all lands which were not regality.

[2] *A.P.S.* ii. 19, c. 21.

[3] *Infra*, pp. 73-74.

[4] *Infra*, pp. 11 (20 March 1514/15), 37.

[5] *Infra*, pp. 226-227.

[6] *Infra*, p. 141.

[7] *Infra*, p. 238.

[8] *Infra*, pp. 101-102. (Cf. also pp. 151, 218-219.)

[9] Cf. *L.A.R.* i. 51, where an action is continued because it is 'gret & doutwys' and 'the principale barones mast of knawledge ande understandin ar

of court [1] were at all times present for the administration of justice.[2] Later, when the body of the court became of less importance,[3] no such continuations are to be found.

The sheriff court was the King's court or, more properly, the King's baron court, and within his sheriffdom the sheriff was the King's minister, competent to administer justice both civil and criminal. His jurisdiction, however, was not without restrictions. Most notably, the four pleas of the crown—murder, rape, robbery, and fire-raising—were denied to him, and he was not judge competent to any ecclesiastical person.[4] In addition, the other jurisdictions within the shire greatly circumscribed his authority.[5] He had no jurisdiction over any one dwelling within a stewartry or bailiary, the King's steward or bailie alone

not present.' Similarly in the *Leg. Quat. Burg.*, whilst the Scottish version states that the court may be continued for 'weakness of court or scantness of suitors,' the Latin version runs '*aut ipse judex ex debilitate curie et penuria consilii diem prolongaverit*'—that is, debility is clearly a court not sufficiently strong in men of good advice. (*A.P.S.* i. 342, c. 47.) In this connection it should be noted that there is frequently a burden of suit to intermediate courts when summoned '*pro vigoracione curie.*' (Cf. *Vetus Arbroath*, No. [339]. See *infra*, p. lxxxix and *notes* 2 and 8.)

[1] Thus, in May 1517, the sheriffs-depute are 'avisit with thar assessouris' in the case *Fernie* v. *Lundy*, but continue certain other actions for debility. (*Infra*, pp. 73-74.)

[2] That is, 'debility of court' must not be connected with the use of the phrase '*in plena curia.*' (See *infra*, App. H.)

[3] *Infra*, pp. xc-xci.

[4] *B.P.* 18, c. 9; cf. the protest *infra*, p. 28. It is noteworthy, however, that the Lords of Council upheld the sheriff's decision in the case of the *Teinds of Dysart*, thereby indicating that the plea of the defence that the case was 'dependand before the officer of Sanctandrois' did not exclude the jurisdiction of the sheriff. (*Infra*, p. 16, and Notes p. 287.)

[5] In view of the financial gains derived from the administration of justice, it is not surprising to find frequent conflicts between the various courts as to the right of proceeding in a case. In 1542 the sheriff of Linlithgow 'ordanit that na persone within the boundis of his office & undir his Jurisdictione summond or tak ane uther befor ony uther Jugis spirituall or temporall for quhatsumeuer cause action or clame bot befor hym & his deputis ane or maa reseruand & excep[t]and alanerlie to the spiritual Juge the actionis concernand thame.' (MS. Linlithgow Sheriff Court Book, 1541-61, f. 21*r.*) Similar inhibitions can be found in many burgh court books. (Cf. *Peebles Records*, i. 297.)

being judge competent over those dwelling therein[1]; lords of regality possessed jurisdiction equal to, and in some cases greater than, that of the sheriff, and in the regalities the sheriff had no power; while the burgesses of the royal burghs claimed the right to be heard only before their own courts or that of the Chamberlain.[2] As a jurisdiction, therefore, the sheriffdom was far from being co-extensive with the shire.

Exemption from the jurisdiction of the sheriff was not infrequently granted to individuals on the ground of 'deadly enmity and feud.'[3] Such exemptions generally extended to the relatives, servants and tenants of the exempted party,[4] and naturally ceased when the sheriff in question demitted office.[5] Usually, when the exemption was granted, arrangements were made for any actions which arose to be brought either before the Lords of Council as a court of first instance,[6] or before some particular judge nominated by them to sit with power equivalent to that of the sheriff.[7] Similarly, where no exemption had been

[1] *B.P.* 18, c. 9. Not even if a special commission were directed to the sheriff. (*Ibid.* 19, c. 15.) This rule was upheld in the Fife Sheriff Court, 22 October 1575 and 17 December 1575. (MS. Fife Sheriff Court Books, Cupar-Fife.) But note the privilege granted in *R.M.S.* ii. 2790 and the powers outlined in *R.S.S.* ii. 4869.

[2] Burgesses of the royal burghs were restricted to their own courts by the *Leges Burgorum*; they did not pay suit to the sheriff court and were completely outwith its jurisdiction. Disputes, however, occasionally arose between the sheriff and the burgh. See 'The Raid at Dumfries' in *Trans. of the Dumfriesshire and Galloway Nat. Hist. and Antiq. Soc.*, 1913-14, pp. 78-111; and *Ayr Charters*, Nos. 25, 26.

[3] Cf. *infra*, p. 9; *L.A.R.* i. 280-281, 322-324; *R.S.S.* i. 97; and see the entries in *R.P.C.* i. 315; iv. 283-284, 696.

[4] Cf. *infra*, pp. 255-256, and see *R.S.S.* i. 97, 228.

[5] *Infra*, p. 9. In the case of heritable sheriffships the exemption would naturally continue whilst the office remained in the same family.

[6] Cf. *R.S.S.* i. 1573, 1723.

[7] Cf. *A.D.C.* xv. f. 157*v*, 158*r*, that in all cases affecting the exempted party 'the said patrik schiref principale foirsaid sall deliuer & geve ane commissione & powar to gilbert m^{c}dowale of the Cass in wigton to syt apone the said actionis & ministre Justice equaly tharintill furtht of the presens of the said

granted, and a protest of 'enmity and feud' was made, the Lords of Council might, with the consent of the sheriff, order the case to be heard before them.[1] When, however, the sheriff was considered to be 'partial' or 'suspect' for some one particular case only, local arrangements were usually made—either the appointment of a special depute with the consent of both parties,[2] or the transference of the case to the court of a neighbouring sheriffdom.[3]

As a mark of singular favour exemptions were sometimes granted from all courts save those of the Session and the Justiciar.[4]

Persons on the King's service enjoyed a special protection. If the service detained them in some other part of the country, any action in which they or their tenants or servants were concerned was postponed until their return [5]; if it had carried them overseas or to England the postponement included a period of grace, generally twenty or forty days, following their return.[6] A similar privilege was granted to any going on pilgrimage,[7] and even to persons passing overseas for business or other purposes.[8]

It is difficult to say when the sheriff court became a court

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schiref.' This is much fuller than the occasional appointment of a *vicecomes in hac parte* to serve brieves of inquest if the sheriff was interested. (See *infra*, pp. lxix-lxxii.)

[1] Cf. *A.D.C.* xxxiii. f. 38*v*. The sheriff was generally called to raise exceptions against the exemption if he so wished. (*A.D.C.* xxvii. ff. 173*r*, 190*r*.) If he was not called and exemption was granted he could make formal protestation resulting sometimes in the cancellation of the letters of exemption. (*A.D.C.* xxvii. f. 173*r*.)

[2] Cf. *infra*, pp. 272-273.

[3] *A.D.C.* ii. 347. Similarly in England an accused could put himself upon a neighbouring county.

[4] See Fraser's *Chiefs of Grant*, ii. No. 2; *R.S.S.* i. 264.

[5] Cf. *infra*, pp. 175-176, 265.

[6] *Infra*, pp. 143, 145; cf. *R.S.S.* i. 1545, 2737; *R.P.C.* i. 135-136.

[7] Cf. *R.S.S.* i. 212, 485; and see *Spalding Club Misc.* ii. 106, 204; iv. 30.

[8] *R.S.S.* i. 2048.

of record.[1] The justiciar's court appears to have been a court of record as early as 1281,[2] and there are extant scrolls of the burgh court of Aberdeen for 1317.[3] It may be presumed that the sheriffs preserved record from an equally early date, and the service of brieves from the King's Chancery would seem to make record a necessity almost from the beginning.[4] It is significant that in 1398 one of the heads of an appeal by the Bishop of Moray against a decision given in the sheriff court of Inverness ran '*quia sententia non fuit lata in scriptis*,'[5] whilst the 'rolment of court' is always cited as the principal evidence in any review of the sheriffs' decisions.[6]

That a court meeting in early times was not without excitement may be gathered from the various enactments passed to limit 'followings.' Both parties were apt to regard a judicial suit in the same spirit as a suit of war, and both endeavoured to muster as large an array of friends and retainers as possible.[7] Accordingly it was laid down that all attenders at the court had to come in sober and

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[1] For England, compare *Cambridge Hist. Journal*, i. 103 and *Eng. Hist. Rev.* xxxix. 84 with *E.C.C.* 128-129. Record in early times was due principally to reasons of finance—the collection of fines, escheats, etc. Thus in the *Eyre of Kent* it is recorded that many who had been previously tried and acquitted in some seignorial court had to stand a second trial in Eyre through the impossibility of proving their previous acquittal; for the practice of these courts was not to record acquittals, though '*if judgment had been given of him that he should be hanged the aforesaid court would have recorded such judgment.*' *Eyre of Kent* (Selden Soc.), iii. 194.

[2] '*Et hoc exprimitur in rotulis Justiciarij de Kinkardyn.*' *Vetus Arbroath*, No. [230].

[3] *Spalding Club Misc.* v. 3 ff. On the other hand, it is worthy of note that a protest made in 1250 seems to imply that the judicial decisions of Parliament were seldom recorded—'*minime fuerint in scripturam redacta*'—at that time. (*A.P.S.* i. 425, No. 2.)

[4] In our earliest records the brieve was usually sewn to the scroll recording the decision of the court.

[5] *Moray*, No. 179.

[6] There is reference to '*parale recordum vicecomitis*' of the sheriff of Edinburgh in 1385. (*A.P.S.* i. 553 *a*.)

[7] Cf. *R.S.S.* i. 1745, 1750.

quiet manner with only their usual following[1]; if the sheriff were informed of any man coming to the court with a body of armed followers he had to charge him dismiss his following, and, if met with a refusal, to continue the court whereby the contemner, in addition to punishment, was liable for any expenses or damages sustained by litigants through delay of justice.[2] On the other hand, the sheriff himself could ride with a body of followers greater in number than he usually maintained—this for the due execution of justice and the upholding of the King's authority.[3] If any man dreaded bodily harm of another the sheriff had to take 'lawburrows' of them both.[4]

In the court the peace was the King's peace.[5] It was strictly enforced,[6] and punishments for contempt of court are not infrequent.[7]

The sheriff was ordered to hold his courts at lawful times and places, administering justice without fraud or favour equally to the poor as to the rich.[8] To carry out his judicial functions the more efficiently he had to know and understand the law of the realm and the Acts of Parliament.[9] He had to be a person of such standing, with sufficient property in land and goods, as to allow of fitting punishment should he be found guilty in the execution of his office.[10]

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[1] *A.P.S.* ii. 16, c. 10; 51, c. 29.

[2] *A.P.S.* ii. 177, c. 9. (Cf. also *ibid.* iv. 159, c. 1; 234, c. 31; and see *R.P.C.* iii. 173.)

[3] *A.P.S.* ii. 351, c. 41 (1535).

[4] *A.P.S.* ii. 51, c. 29.

[5] Cf. *B.P.* 279, c. 33.

[6] At the end of the sixteenth century breach of the peace in the sheriff court was made punishable by a fine of £100 to the sheriff and imprisonment at his will, while for striking the judge the penalty was death. (*A.P.S.* iv. 22, c. 22.)

[7] Cf. *infra*, p. 209; *L.A.R.* i. 93-94; *A.D.C.* i. 31 *b*.

[8] *A.P.S.* ii. 8, c. 24.

[9] *A.P.S.* ii. 35, c. 2. The 'Education Act' of 1496 (*A.P.S.* ii. 238, c. 3) endeavoured to ensure for the sons of barons a knowledge of 'art and law.' This was desirable in view of the heritable nature of many sheriffships.

[10] *A.P.S.* ii. 3, c. 6. Similarly in 1483 we find the Lords Auditors ordering the sheriff of Perth to execute certain letters of poinding and apprising directed

THE OFFICE OF SHERIFF

It is not without significance that the earliest record of the sheriff and his office belongs to the reign of David I. The sheriff is the strong hand of the King in the localities. The establishment of the office is not merely a sign of the penetration of Anglo-Norman feudalism, it is also a sign of the determined strength of the central power. When David I. appointed sheriffs from the Anglo-Norman barons who attended his court he was undoubtedly establishing his government against the possible revival of Celtic dominance. The policy, which was followed by his immediate successors, was a wise one, and gradually royal sheriffs were established over the whole kingdom, holding the lands in check as trees are planted to hold shifting sand.[1] Walter of Coventry, writing under the year 1212, records that 'the more recent Kings of Scots profess themselves to be rather Frenchmen, both in race and in manners, language and culture; and after reducing the Scots to utter servitude, they admit only Frenchmen to their friendship and service'[2]; but the same chronicler also records that these 'recent kings' had all led armies to the north against rebellions which, had they been successful, would have severed the northern territories from the Crown.

If our analysis of the origin of the sheriffdom is correct,[3] the sheriff was at once a judicial, financial, administrative,

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to him with intimation that if he fail to do so his own lands and goods will be distrained for payment. (*A.D.C.* ii. cxi.) But in case of trivial complaint against the sheriff the complainer had to pay the sheriff all costs and damages and undergo punishment at the King's will. (*A.P.S.* ii. 94, c. 2.) In England the sheriff had to have land sufficient to 'answer to the King and his people.' (*Statutes of the Realm*, i. 174; and cf. also *ibid.* ii. 4, c. 11.) A similar precaution was advocated by the writer of the *Cambridge MS.* (*Scot. Hist. Soc. Misc.* ii. 37).

[1] *Infra*, App. D, Part I.

[2] *Walter of Coventry* (Rolls Series), ii. 206.

[3] *Infra*, App. D, Part II.

and military officer. References to the sheriff's court occur as early as the twelfth century; the inventories of records removed during the War of Independence refer to *compota* of sheriffs[1]; administrative duties were placed upon the sheriff by early enactments of Parliament; and the earliest records show traces of his military activities. Conflict between the new officials and the old there must have been, but our records are too scanty to write its history.[2] The earl might still be the leader in battle, but the sheriff was the military officer of the locality and led the men therefrom to the battlefield; the *judex* might continue to administer his office where there was no sheriff,[3] but later he descended into an inferior officer of the sheriff's court.[4]

Appointment to the office lay with the King: the sheriff was the King's officer.[5] The writer of the *Cambridge MS.* thought that appointment should be 'by the advice and election of the good people of the county,'[6] but he was obviously considering the struggle that was then taking place in England,[7] and in Scotland the people never had any say in the election of the sheriffs. Following appoint-

[1] *A.P.S.* i. 113, 117. William the Lion made Andrew of Sinton sheriff of Selkirk to be held *by answering to the King and his heirs for the issues.* (Bain's *Calendar*, ii. 1681.)

[2] It is interesting to note that Professor Morris has recently dispelled the theory put forward by Stubbs that in England the sheriff was at first appointed as an opposing force to the earl in the localities. See *Medieval English Sheriff* (1927), 38-39.

[3] Cf. *Dunfermline*, No. 15 (*L.C.* No. 105). 1128×1138. Lawrie suggests that here the *judex* was probably the earl. (*L.C.* p. 346.)

[4] *Infra*, pp. lxvi-lxix.

[5] Cf. the use of the term *vicecomes meus* in many of the early appointments. (*Scone*, No. 68; *Cambuskenneth*, No. 18; *Newbattle*, No. 20, etc.)

[6] *Scot. Hist. Soc. Misc.* ii. 37. The Edwardian ordinance of 1305 laid down that the sheriffs, who were to be sufficient men and most profitable for the King and people, were to be appointed or removed by the Lieutenant or Chamberlain at discretion. (*A.P.S.* i. 120.)

[7] See Stubbs, *Constitutional History* (3rd edn.), ii. 216, and Morris, *Medieval English Sheriff*, chapter VII.

ment, there was no definite period for tenure of office,[1] though gradually it became almost uniformly heritable. One man could be sheriff of more than one sheriffdom,[2] or, as in the present record, two sheriffs could hold office *coniunctim et divisim*. Various statutes of Parliament laid down that negligent or bad sheriffs should be punished at the King's will and should lose office for a year and a day (if held in fee and heritage), or for all time (if held for a term of years).[3] This presupposes some kind of control which was apparently exercised by the Justiciars [4] and by the Lords of Council,[5] though upon occasion direct action

[1] There are appointments for a term of years, for life, heritable, and *durante voluntate regis*. (Cf. *R.M.S.* ii. 680, 1112.)

[2] Thus Adam Hepburn, 2nd Earl of Bothwell, held the offices of sheriff of Edinburgh, of Edinburgh within the constabulary of Haddington, and of Berwick, and was succeeded in these offices by Patrick Hepburn, 3rd Earl Bothwell (*E.R.* xiv. 516); while George, 4th Earl of Huntly, was sheriff of Aberdeen and Inverness and, after 1549, of Elgin and Forres also.

[3] *A.P.S.* ii. 35, c. 5; 50, c. 23; 225, cc. 9, 11; etc.

[4] It is to be noted that appeal from earliest times was from the sheriff to the justice-ayr (cf. *A.P.S.* i. 98; *Moray*, Nos. 164, 179), and that the Act of 1503/4 was merely re-affirming the old pyramid (*A.P.S.* ii. 246, c. 46. Cf. *infra*, pp. 273-274).

In 1369/70 it was decreed by Parliament that, in view of the complaints against sheriffs and other officers, the Justiciar with the Chamberlain should inquire into their conduct by assize in each sheriffdom, and if found guilty, they should be deprived of office and imprisoned. (*A.P.S.* i. 508*b*, 535*a*.) Later it was enacted that on the last day of the justice-ayr in each sheriffdom the sheriff,' as a local official of the Crown, should 'thole an assize' charged to inquire whether he had duly and truly exercised his office (*A.P.S.* ii. 177, c. 8), and the final entry of the ayr held at Elgin in 1556 may be cited as running 'The samin day alexander dunbar of cumnok schireff of elgin and fores oblist him selff to enter befoir the quenis grace in abirdene the xxvj day of september instant and tharwpone fand cautioune James dunbar of tarvet with him selff coniunctlie and seuerallie under the pane of ane thowsund pundis.' (MS. Haddington Collections, f. 119*v*.) The writer of the *Cambridge MS.* had laid down a similar rule. (*Scot. Hist. Soc. Misc.* ii. 37.) Almost a like procedure was followed in England. (Cf. *Eyre of Kent* (Selden Soc.), i. 4, 28-46; *Statutes of the Realm*, ii. 579-580, c. 15. But see Morris, *Medieval English Sheriff*, 209.) Similarly, in Normandy. (Powicke, *Loss of Normandy*, 88.)

[5] *A.P.S.* ii. 35, c. 5. In 1505/6 the Lords of Council declared that Hugh Campbell of Loudoun, sheriff of Ayr, for non-fulfilment of his duties, had forfeited his office, and ordered him to enter his person in ward within the castle of Blackness. (*A.D.C.* xvi. f. 163*v*.)

was taken by Parliament itself.[1] In addition to this control there was the added constitutional check that no royal mandate was to be carried out if '*contra statuta vel communem formam juris*,' no matter under what seal such mandate was issued.[2] Upon appointment the sheriff produced his charter and sasine in full court and took the 'great oath' to perform his office 'lelely and treuly.'[3]

Although the sheriff was the King's officer, exceptions are apparently to be found where the earl either assumed or received the right of appointment.[4] William of Vallibus was made sheriff and constable of Elgin by Patrick, Earl of March and Moray, though it is noticeable that the appointment was later ratified and confirmed by the King '*salvo servicio nostro*'[5]; the sheriffship of Forres seems at one time to have been held under the Earls of Moray[6]; and the sheriffship of Nairn was for long held under the

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[1] Cf. *A.P.S.* i. 557 *a*; ii. 22, c. 3.

[2] *A.P.S.* i. 509*a*, 535*a*, 547*b*. See also Mackenzie, *Observations*, 198, Act 92. Similarly in England 'a writ fails if it is contrary to the law and customs of the realm and especially if it is contrary to the Charter of Liberties.' Bracton, *De Legibus* (Rolls Series), vi. 270.

[3] Cf. *infra*, p. 205. Similarly, 'The quhilk day ane nobill and mychty lord henry lord methwen schireffe of lynlythtquhow producit his Infeftment of the office of the schirefschipe of the said schirefdome In Perchiament writing/the kyngis greit seill hingand therat the quhilk Infeftment in audience of the cowrt wytht hie and Intellegibill woice was Rede and onderstand togidder wytht his Instrument of sesing of the said office.' Sasine was then taken by receiving the rod of office of the sheriffdom in token of the judicial office, and the sheriff was inducted into actual corporal and real possession by being shut up in the court-house of the sheriffdom as a sign of possession. (MS. Linlithgow Sheriff Court Book, 1541-1561 (Register House), f. 1*r*.)

[4] In England, in the early Norman period the earl frequently had the right of nominating, or acting as, the sheriff. This may have been due to the early subordination of the office. The earl was higher than the sheriff and thus in some instances controlled him. For appointments of English sheriffs by the earl see *Morris*, *op. cit.* 44-45.

In Scotland, Chalmers refers to barons as having their own sheriffs, but the cases he cites are based on a mistranslation of the Latin. (*Caledonia*, ii. 517 *n.*, 716 *n.*)

[5] *R.M.S.* i. 103, 121.

[6] Cf. *Thanes of Cawdor*, p. 8; Fraser's *Douglas Book*, iii. p. 75, No. 80.

Earls of Ross,[1] until, in 1475, through the forfeiture of the Earl, the office reverted to the Crown.[2]

Naturally in early times appointment often meant the creation of a new sheriffdom, but the Acts of Parliament creating the sheriffdoms of Skye, Lorne, and Kintyre,[3] and of Caithness and Ross,[4] seem to indicate that consent of Parliament became necessary for any new erection.[5]

As early as 1305 the office was heritable in three counties—Selkirk, Kinross, and Cromarty.[6] Dumbarton and Roxburgh soon followed, and the number of heritable sheriffships steadily increased as though the Crown were pursuing a definite policy. An Act of 1455 forbade any future gift of office 'in fee and heritage,'[7] but there was never any attempt to make the enactment operative. In

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[1] *Thanes of Cawdor*, pp. 15, 46, 49, 52.

[2] After the forfeiture of John of the Isles in 1475, William, Thane of Cawdor, took instruments in January 1475/6 '*pro omnibus terris suis et officio vicecomitatus de Narne cum pertinentiis sibi jure hereditario pertinentibus alias de Johanne quondam comite de Ros tentis supremo domino nostro regi facere ea que de jure tenetur, etc.*' (*Thanes of Cawdor*, 55-56.) But see *A.P.S.* ii. 189, No. 7.

Henry of Sancto Claro (Sinclair) appears as *vicecomes meus* in a charter of William of Morville, Constable of Scotland. (*Glasgow*, i. No. 46.) In 1407 we find a charter '*Alexander Senescalli comes de Marre et dominus regalitatis de Garuiach iusticiario vicecomiti balliuo et maris nostris dicte regalitatis, etc.*' (*Aberdeen*, i. 212.) Similarly see *Aberdeen*, i. 207-208; *Moray*, No. 194. In these cases, however, the sheriff is not the royal official, but an officer appointed by the more important barons to perform similar functions within their fiefs. For parallel cases in England see Morris, *Medieval English Sheriff*, 45 *n.*, 108-109.

[3] *A.P.S.* i. 447*b* (1292 × 1293).

[4] *A.P.S.* ii. 241-242, 249-250 (1503/4).

[5] But see Mackenzie, *Matters Criminal*, II. xii. 1, in contradiction of this supposition. In 1506 it was agreed that the King could divide, create, unite or annex sheriffdoms, as he thought expedient, either out of Parliament or in Parliament (*A.P.S.* ii. 267, c. 5). Previous re-arrangements always seem to have been made in Parliament. (Cf. *A.P.S.* ii. 243, c. 18; 251, c. 18; 268, c. 2.)

[6] *A.P.S.* i. 121. But even at this time heritable offices were apparently looked upon with disfavour by thoughtful writers. (Cf. *Scot. Hist. Soc. Misc.* ii. 37.)

[7] *A.P.S.* ii. 43, c. 5.

the sixteenth century both Lesley [1] and Skene [2] denounced the system, and there is ample evidence that James VI. was alive to its dangers.[3] But the heritable office-holders were too strong,[4] and, at the time of the abolition of heritable jurisdictions, out of thirty-three sheriffs and stewarts in Scotland no less than twenty held office heritably.[5]

Heritable sheriffships could be sold or otherwise disposed of by the holder, though royal assent to any alienation soon came to be considered necessary.[6] Further, there were many practical difficulties. The office might descend to a minor when a 'sheriff wardatour' or 'sheriff wardour' had to be appointed [7]; not infrequently it

[1] *Historie* (Scot. Text Soc.), i. 127. His satire 'nocht created or maid be the king, bot borne of thair parents' is delightful.

[2] 'Schireffs in this realme hes their offices given to them be the King in heritage, contrair to the act of Parliament . . . quhilk is the cause of great enormities and wranges, be reason the schireffes being infeft heritablie, thinkis themselves sure of their office, and regairdis nocht the execution theirof.' (*D.V.S.* s.v. *Schireff.*)

[3] Cf. the important functions given to the sheriffs in parliamentary elections in the Act of 1567 and their express exclusion in the Act of 1587 passed upon his majority. (Rait, *Parliaments of Scotland*, 223 *n.*) In *Basilicon Doron* he wrote, 'But the greatest hinderance to the execution of our lawes in this countrie are these heritable Sherifdomes and Regalities, which being in the handes of the great men, doe wracke the whole countrey.' (Book II.) In 1617 he appointed commissioners to consider the heritable offices and report thereon. (*A.P.S.* iv. 549, c. 24.) But it is doubtful if anything was done either by James or by his son despite the later reference to the 'great debts whilks his Majestie hes contracted' in the buying of heritable offices. (*A.P.S.* v. 209*b*.)

[4] It is noticeable that in the Act of 1567 providing that no person should be admitted to any public judicial office in the realm but such as professed the reformed religion, all who held their offices heritably were expressly excluded. (*A.P.S.* iii. 24, c. 9.)

[5] Chalmers, citing an official list of 1724, gives the numbers as 9 during pleasure, 4 for life or lives, and 20 heritable. (*Caledonia*, ii. 870 *n.*)

[6] Cf. the Roxburgh alienation, *infra*, p. xxxvii, *note* 1. Later, in cases of flagrant abuse the Crown not infrequently intervened. (Cf. *R.P.C.* xii. 624, 625; xiii. 186.)

[7] Cf. *Dumfries Sheriff Court Book* (ed. Grierson), pp. 92, 97; *E.R.* xxi. 103. A sheriff minor was naturally unable to serve brieves or otherwise execute his office. (Cf. *A.D.C.* i. 195*b*—*Robert Lord Fleming* v. *James Lord Hamilton, Sheriff of Lanark.*)

descended to a woman [1]; and the many claims for exemption from the jurisdiction of sheriffs because of 'enmity and feud' were only increased through the perpetuation of office in the hands of one family.

These heritable holdings provide ample evidence of the value of the office. In 1321, when the sheriffship of Dumbarton was granted heritably to Malcolm, 4th Earl of Lennox, a reservation was made that if ever the Crown took back the office it would make a payment of 500 marks sterling annually until restoration was made.[2] At the beginning of the seventeenth century the heritable sheriffship of Roxburgh was considered to be worth £20,000 (Scots),[3] and the payments made in compensation by the Government in 1747 were in all cases considerable.

The office was one of dignity and was generally held by men of high standing and authority.[4] Almost all the early sheriffs were important barons or officials of the King's

[1] There are many examples of the office descending to a woman. In 1405 Robert III. made Sir David Fleming of Biggar sheriff of Roxburgh, the office being considered in the Crown's hands by escheat because Isabella, Countess of Mar (to whom it pertained heritably) had alienated it and caused sasine to be given to Archibald Douglas without the King's leave asked and obtained, the office being held *in capite*. (Fraser's *Douglas Book*, iii. No. 347; *Hist. MSS. Comm.*, 7th Report, p. 727, No. 3.) But within six months Biggar had been slain by the Douglases, and in 1412 the office was definitely in the hands of Douglas with its attached lands of Cavers.

In England there are isolated examples of women as sheriffs. Ela, Countess of Salisbury, was apparently sheriff of Wiltshire in 1227 and again in 1231-1236.

[2] Fraser's *Lennox Book*, ii. No. 18.

[3] *A.P.S.* v. 57, c. 48; *Hist. MSS. Comm.*, 7th Report, p. 731, Nos. 39, 40. See also *A.P.S.* v. 62, c. 54, where the sheriffship of Sutherland is said to be worth £1000 sterling.

[4] In early times it was apparently held occasionally by churchmen. Bernard of Linton, Abbot of Arbroath, may have been sheriff of Forfarshire (*R.M.S.* i. App. i. No. 76), though the Latin is capable of two interpretations. *Radulphus clericus tunc vicecomes de Perth* (*Scone*, No. 88) was almost certainly a churchman. (Cf. also *ibid.* No. 68.) In the thirteenth century ecclesiastics were forbidden by the Church from acting as sheriffs or justiciars. (*Concilia Scotiae* (Bannatyne Cl.), ii. 52.) In England clerics were forbidden from holding the office by a canon of Archbishop Richard's Council, 1175. (Morris, *Medieval English Sheriff*, 113.)

household, and their attestations of charters show that they often followed the King's court through the realm. Struggles for office naturally took place,[1] and sometimes ended in bloodshed and death.[2]

As representative of the Crown and upholder of its authority in the provinces, the sheriff possessed very full powers with corresponding duties. These powers and duties may be roughly classified as criminal justice, civil justice, the service of brieves, conservation of the peace, military duties, and administrative duties.

The criminal jurisdiction of the sheriff extended to murder when the offender was taken 'red-hand,' to theft when the thief was taken 'with the fang,' to manslaughter, and to general breaches of the peace. The four pleas of the crown (murder, rape, robbery, and fire-raising) were reserved to the justiciar, though the sheriff might, by commission, receive such pleas in his court[3]; occasionally we find him doing so without authority.[4] As a civil judge the sheriff could decide actions of molestation, removing, ejection, spuilzie, and personal actions of all kinds; he could authorise poindings and apprisings; before him, in his ministerial capacity, brieves of inquest, terce, tutory, and idiotry could be served.[5]

In his judicial capacity the sheriff was also responsible in early times for the proper administration of justice in

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[1] Cf. the struggle between Andrew, 5th Earl of Rothes, and Patrick, Lord Lindsay of the Byres, for the office of sheriff of Fife. (*Hist. MSS. Comm.*, 4th Report, pp. 500-502; *Historical Records of the Family of Leslie*, ii. 74-77.)

[2] Cf. the murder of Sir Alexander Ramsay of Dalhousie by Sir William Douglas for the office of sheriff of Roxburgh, and similarly the later slaughter of Sir David Fleming of Biggar by the Douglases for the same office.

[3] Cf. *E.R.* xv. 644. Similarly, immediately after Flodden, where fell many sheriffs and most of Scotland's nobility, some criminal work appropriate to the justice-ayrs was devolved temporarily upon the sheriffs. (Cf. R. K. Hannay, 'Antecedents of the College of Justice' in *Book of Old Edinburgh Club*, vol. xi.)

[4] Cf. Pitcairn, *Criminal Trials*, i. pt. i. 63; *R.P.C.* ii. 666-669.

[5] For all these actions and the service of brieves, see *infra*, App. B.

the inferior courts within his sheriffdom. No baron could hold a court of 'life and limb,' or put any man to the ordeal by battle, water or iron, unless the sheriff or his sergeand were there to see law and justice observed, though in other causes the baron court could proceed to justice in the absence of the sheriff, provided sufficient witness to his absence were taken.[1] The sheriff's court was the court of appeal against decisions given in baron courts within the sheriffdom.[2]

In a similar manner it was part of the sheriff's duty to uphold and strengthen the courts of the Church.[3]

As conservator of the peace the sheriff had to search for and pursue rebels put to the horn and not 'relaxed.'[4] He had at his command a system similar to the Anglo-Saxon 'hue and cry,' and an Act of 1432 laid down that those who heard the King's horn, or who were otherwise warned, and did not rise in support of the sheriff were to be tried by assize and fined.[5] If rebels fled without the bounds of the sheriffdom the sheriffs of the 'four halves about' were informed in order that they might continue the pursuit,[6] and when escape had been made through

[1] *A.P.S.* i. 374, c. 12. It would appear as though a similar duty had been previously performed by the *judex*. (Cf. *Dunfermline*, No. 15. (*L.C.* No. 105) 1128×1138.) Similarly in England the King's sergeand had to be present at the ordeal. In 12 Henry II., the soke of Alverton was fined ten marks for putting a suspect to the ordeal of water without the presence of the *serviens regis*. (Madox, *Exchequer* (1769), i. 557. Cf. also *Eng. Hist. Rev.* xxxv. 181 *n.*)

[2] See the note printed *infra*, p. 307 : 273.

[3] Cf. *Moray*, No. 10; *A.P.S.* i. 576*a*; ii. 35, c. 1. In the Brevia of the Ayr and Bute MSS. (Transcripts, Register House), the sheriff is commanded to imprison those who have been excommunicate for 40 days (cf. also *A.P.S.* ii. 297, c. 6). Similarly in England William I. granted the Church the '*fortitudo et justitia regis vel vicecomitis.*' (Stubbs, *Select Charters* (9th edn.), 99-100.)

[4] *A.P.S.* ii. 372, c. 14 (1541). (Cf. *L.A.R.* i. 97-98, 159-160; *infra*, pp. 215-216, 274-275.)

[5] *A.P.S.* ii. 21, c. 10. The actual use of the horn is clear from the phrase 'blaw out on thaim' used in the Act of 1438. (*A.P.S.* ii. 32*a*.)

[6] *A.P.S.* iii. 554, c. 28. The 'four halves about' here seem to be the four neighbouring sheriffdoms, and elsewhere the phrase is used with that intent (cf.

divers sheriffdoms the sheriffs passed to their head burghs and forbade any one to receive or help the rebels under pain of life and goods.[1] Immediately upon any man being put to the horn it was the sheriff's duty to send in his name, together with the offence, to the Treasurer or his clerk and, at command of the Treasurer, to take up the escheated goods and gear.[2]

Akin to such duties the sheriff was responsible for the safeguarding of prisoners passing through his shire. Prisoners were handed over from sheriff to sheriff until their final destination was reached, each sheriff being responsible for the time the prisoners were in his sheriffdom.[3]

'Sornars' and trespassers that 'lye apone ony the Kingis liegis' were to be apprehended by the sheriff and law done 'apone thame as apone a theif or reffare.'[4] 'Idle men' were to be arrested until surety was found for them, upon which they were to be given 40 days to find masters or enter a craft under pain of imprisonment.[5] Later, in 1493, the existence of such a class was turned to more economic use, the sheriffs being instructed to compel them to labour for wages in the building of fishing-boats.[6]

A.P.S. iii. 144, c. 17; 359*a*; xii. 25*a*). Mr. Angus has called my attention to the form 'and schirefdomes of the four half about the samin' (1548), which admits of no doubt. (*A.D.C. & S.* xxiv. f. 99*r*.) On the other hand, the phrase does not always refer to the neighbouring sheriffdoms, and the correct interpretation of its use seems to be the 'four neighbouring jurisdictional units,' later corrupted into 'the neighbourhood.' (Cf. *Spalding Club Misc.* ii. 120; *Charters of Ayr*, No. 30.)

[1] *A.P.S.* ii. 21, c. 2. See also *A.P.S.* i. 550*b*. [2] Cf. *infra*, p. 122.

[3] Later this appears to have been done at his own cost. (Cf. *R.P.C.* (2nd Series), vi. 498.) Burgesses, under the magistrates, were to convey prisoners to the extreme of the 'privilege' of the burgh and there hand them over to the sheriff. (Cf. Mackenzie, *Observations* (1686), 106, Act 34.) A similar procedure was followed in England.

[4] *A.P.S.* ii. 3, c. 7; 36, c. 9; 43, c. 8.

[5] *A.P.S.* ii. 11, c. 20 (1426). See also the Act of 1425 (*ibid.* 8, c. 21).

[6] *A.P.S.* ii. 235, c. 20; repeated in 1504 (*A.P.S.* ii. 251, c. 15). Unfortunately in the later legislation against the 'valiant beggars' such economic measures gave way to brute repression.

'Cruikit folk, blind folk, Impotent folk and waik folk,' however, were to be allowed to beg, as also others between the ages of fourteen and seventy, provided they bore tokens given them (as licence) by the sheriff,[1] though later their solicitations were limited to the bounds of their native parish.[2] For failure in the exercise of this authority the sheriff was at first made liable to a fine of fifty shillings to the King, but in 1504 the penalty was raised to one mark for every person found begging within his sheriffdom unless that person came within the category laid down for the impotent poor.[3]

The sheriff's military duties were long an important part of his work. The *Exchequer Rolls* reveal that at the time of Haco's invasion the sheriff of Inverness built outworks round the castle, while the sheriffs of Wigtown, Dumfries, and Nairn put their castles in repair; the sheriff of Roxburgh took stock of his armoury; the sheriff of Stirling paid watchmen to keep a look-out from the castle '*tempore quo rex Noruegie fuit in partibus istis*'; and the sheriff of Ayr laid in a store of bolts and quarrels, sent out spies, fashioned oars, and for three weeks retained 120 men in his castle in place of the burgesses who ought to have performed that service.[4] These are vivid pictures of the local military officer and his unit dependent on the castle.[5]

In England the sheriff was leader of the local levy from the earliest times, but when such a system was introduced into Scotland, or when the earl ceased to be the local military leader (a position always accorded him in the

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[1] *A.P.S.* ii. 8, c. 21; 49, c. 17. For a description of these beggars' tokens see the article by Sir James Balfour Paul in *Proc. Soc. Antiq. Scot.* (1886-1887), 169-179.

[2] *A.P.S.* ii. 347, c. 29 (1535).

[3] *A.P.S.* ii. 251, c. 14.

[4] *E.R.* i. 5, 6, 13, 17, 20, 24, 30, 31. Similarly in 1288 the sheriff of Edinburgh placed watchmen in the castle '*propter periculum guerre et pro maiori et necessaria custodia castri.*' (*E.R.* i. 42.)

[5] See *infra*, App. D, Part II.

Sagas), we cannot say. In a reference, in 1251, to the army which Alexander II. led into Argyle in 1248, a certain man is said to have sent his tenants '*cum hominibus domini regis de ballia de forfar*' (doubtless under the sheriff) instead of with the men of the abbot of Arbroath, from whom the lands were held,[1] and when Patrick Fleming was made sheriff of Peebles in the reign of David II. his charter of office included the duty of leading forth the men of the sheriffdom in both peace and war.[2] In 1483, under the arrangements which were made for the siege of Dunbar, the sheriffs were ordered to *leave deputes* of wisdom and substance in their sheriffdoms, clearly indicating the personal absence of the sheriff-principal with the levy.[3] Summons to the host was by writ addressed to the sheriff bidding him assemble the 'fencibles' and lead them.[4] Absentees from the host were fined, these fines being assessed by the justiciar in ayr and collected and accounted for by the sheriff.[5]

Every baron was responsible that his men were 'bodyne' for war, and the sheriff was responsible for the barons of his sheriffdom.[6] The 'wappinschaw' met at his summons,[7] and he was responsible for the efficiency of its arms.[8] The

[1] *Vetus Arbroath*, No. [250]. [2] Fraser's *Douglas Book*, iii. No. 349.

[3] *A.P.S.* ii. 165, c. 2. Later, in times of stress, special lieutenants were appointed grouping the sheriffs under them.

[4] An original writ is preserved in Balcarres MSS. (National Library), vi. 67. The accounts of the Lord High Treasurer abound in items of expense incurred in sending out such writs and others relating to the military duties of the sheriffs. (Cf. *T.A.* v. 29.) Later, writs were usually sent to 'sheriffs in that part' ordering them to summon and assemble the lieges. (Cf. *R.P.C.* i. 343, 362.) On the attendance at the host of all between 16 and 60, see Mackenzie, *Observations*, 2, Act 4.

[5] *E.R.* i. 445. See *infra*, p. xlvi. In 1483 the deputes who were to be left in the sheriffdoms were to collect the escheats of the absentees. (*A.P.S.* ii. 165, c. 2.)

[6] *A.P.S.* ii. 18, cc. 11, 12, 13; 34, c. 7.

[7] *A.P.S.* i. 473; ii. 8, 10, 45, 48, 164, 226, etc.

[8] The Act of 1481 states that 'examples' of weapons were being sent to the sheriffs (*A.P.S.* ii. 132, c. 3), and the Act of 1484 appointed royal officials to

Act of 1484 further ordered him to keep a ' roll and bill ' of weapons and ' defensible persons ' within his sheriffdom, and to bring this list to the assembled host under his seal and the seals of four barons of the shire.[1] Burghs and regalities held their own wappinschaws; the sheriff's wappinschaw was confined to the royalty of the shire. Much stress was laid upon this duty. Occasionally the summons is entered in the court books,[2] perhaps as proof that the sheriff had fulfilled his obligation, perhaps because his summons was issued in court.[3] Licences to remain absent from the wappinschaw were frequently granted, for various reasons, by royal letters.[4] One such licence is duly registered in full in the present record.[5] In order to secure proficiency in arms the sheriff was also responsible for the encouragement of warlike exercises such as archery or ' shooting at the butts.' [6]

As a Crown official the sheriff was charged with the due execution of all royal writs and letters. As early as the reign of Robert I. all justiciars, sheriffs, aldermen and their bailies were ordered to see that the statutes made in the Parliament held at Scone were openly read and cried at their courts ' and in othir placis quhar maist hapnis congregacioun of the pepill,' and that copies were given to those responsible for the administration of the law ' sa that

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attend the wappinschaws to see that the sheriffs had not been negligent. (*A.P.S.* ii. 164, c. 1.)

[1] *A.P.S.* ii. 164, c. 1. For a wappinschaw roll giving names, armour, numbers, etc., held by the sheriff-depute of Peebles in 1627, see Pennecuik's *Tweeddale* in *Works* (1815), pp. 304-307.

[2] Cf. *L.A.R.* i. 100.

[3] In England in the 12th and 13th centuries the military orders of the sheriff were published in the county court. Stubbs, *Constitutional History*, 3rd edn., ii. 220.

[4] Cf. *R.S.S. passim.*

[5] *Infra*, pp. 144-145.

[6] Cf. *A.P.S.* ii. 6, c. 19; 226, c. 13. These exercises were to be carried out to the exclusion of such games as football and golf.

thai haf na mater thaim to excuse of the ignorans of thaim.'[1] Under James I. the Clerk Register was ordered to prepare a register of statutes and ordinances for supply to the sheriffs, who were to see that they were published and proclaimed in the chief places of each sheriffdom, and that copies were provided for those requiring them. Subsequent re-enactments of a like nature abound.[2]

The sheriff's duties in connection with parliamentary elections have been fully discussed by Professor Rait in his *Parliaments of Scotland*,[3] whilst certain evidence seems to indicate that personal attendance at the assembled Parliament was also regarded as part of his duty.[4]

With the progress of legislation, new and multifarious duties were steadily imposed upon the sheriff. He was made responsible for the destruction of illegal weirs and for the enforcement of fishing regulations.[5] He had to hunt 'the wolfe and whelps'[6]; to see that those who held

[1] *A.P.S.* i. 466 (1318). In 1366 Parliament included among its statutes a provision that its decisions should be put in writing and that they should be proclaimed publicly by the sheriffs. (*A.P.S.* i. 499*b*.) The legislation of a general council held in 1384 was sent to the sheriff of Aberdeen by royal letters ordering its observance and enjoining copies to be made and sent to the sheriff of Banff lest dangers should arise '*ex defectu celeris promulgationis*.' (*A.P.S.* i. 550-551.) Similarly in England. (*E.C.C.* 136-139.)

[2] *A.P.S.* ii. 11, 52, 227, 230. Cf. 'Item the said schiref causit ane wther act of parliament maid of new be intimat & opinlie red to the barounis landit men and wtheris.' (MS. Linlithgow Sheriff Court Book, 1541-1561—Register House—f. 21*r*.)

[3] *Op. cit.* 195 ff.

[4] Cf. *A.P.S.* ii. 166*a*, where the sheriffs are ordered to take away copies of certain enactments '*or thay depart*,' and *ibid.* 218, c. 4 where, however, the sheriffs may have been present under a special summons. In 1558 the sheriff of Edinburgh appears to have included among his duties that of opening the Parliament in company with the High Constable and the Marshal (*A.P.S.* ii. 503*a*), whilst in 1569 the duty was performed by the sheriff-depute of Edinburgh along with the deputes of the Constable and Marshal (*A.P.S.* iii. 57*a*). Was this a revival of an old function of the sheriff of the shire in which Parliament sat? (Cf. *supra*, p. xxiii and *note* 4.) In the Parliament of 1585, held at Linlithgow, it is noticeable that it was the sheriff-depute of Linlithgow who fulfilled the duty. (*A.P.S.* iii. 373*b*.)

[5] *A.P.S.* i. 469, c. 11; ii. 51, c. 34; 96, c. 13; 221, c. 16, etc.

[6] *A.P.S.* ii. 15, c. 5; 51, c. 35.

lands in ward, conjunct-fee, or life-rent did not waste them [1]; to act as inspector of weights and measures within his sheriffdom [2]; to enforce the sumptuary laws against rich clothing and luxurious households [3]; to punish regraters and forestallers and prevent exorbitant prices in inns and taverns [4]; to prevent the exportation of bullion and the importation of cloth; all these and innumerable similar duties fell upon the sheriff as the local administrative officer of the Crown.

The sheriff acted as the executive officer of the Justiciar,[5] whose advent he proclaimed forty days beforehand, and to whose ayr he summoned all bishops, abbots, earls, barons, freeholders, and others who owed court-service thereto.[6] It was his duty to report and indict all persons chargeable with crimes falling within the Justiciar's jurisdiction, and to deliver the indictments to the justice-clerk who, having made up his roll, handed it to the coroner to arrest the persons named [7]; though the sheriff, and not the coroner, was the officer responsible for the presence in court of the accused.[8] If there were any persons whom the coroner could not, or dare not, arrest, he delivered their names to the sheriff, who either pledged himself to present them at the ayr or else sent a sufficient number of men to

[1] *A.P.S.* ii. 224, c. 6.

[2] *A.P.S.* ii. 90, c. 9. A duty really pertaining to the Chamberlain, but occasionally deputed to the sheriffs in the localities.

[3] *A.P.S.* ii. 100, c. 7; 488, c. 22 (1552); iii. 220, cc. 18, 19 (1581).

[4] *A.P.S.* ii. 36, c. 11; 487, c. 18 (1552).

[5] Cf. *Reg. Hon. Morton*, ii. 223. Similarly in England. (Cf. *Eyre of Kent* (Selden Soc.), i. pp. 2-5).

[6] See the *Praeceptum itineris justitiariae* in *D.V.S.* s.v. *Iter*, and cf. *A.P.S.* i. 705*b*.

[7] *A.P.S.* ii. 23. c. 3.

[8] In the account of the justice-ayr held at Jedworth in 1493 we find '*Willelmus Douglas vicecomes de tevidale sepe vocatus ad Intrandum A.B. prout recepit eum in indentura a coronatore & non comparens In amerciamento est primum Iter*,' with a marginal entry '*x li amerciatur*.' There are no less than thirty such entries against this sheriff. (Justice Ayr Transcripts (Register House), i. 40-45.)

assist the coroner in making the arrest and bringing them to him for custody.[1] He, or his officer, had to be present personally at the ayr, and he was responsible to the Exchequer for the financial returns.[2] At the close of the ayr the justice-clerk transmitted to him the list or *extreit*[3] of fines which it was his duty to exact, poinding if necessary.[4] If the fined person had no property within his sheriffdom the note was sent by him to the sheriff of the shire in which the property lay, and that sheriff in turn became liable for the fine.[5] With the coroner he viewed the goods of those convicted in ayr and, after allowing the coroner his fee, made full account to the Treasurer for the rest.[6] In a similar manner he acted as executive officer to the chamberlain-ayr[7] and to the 'session'[8] when those courts administered justice within his sheriffdom.

Certain duties connected with the inbringing of the

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[1] *A.P.S.* ii. 176, c. 4; 177, c. 6. The Act of 1529 laid down that if there was no castle within the sheriffdom pertaining to the King, and in which such persons could be kept, then the sheriff had to arrange personally for their safe imprisonment. (*A.P.S.* ii. 331, c. 1.) Sometimes prisoners were warded in the castles of barons whom the sheriff made responsible for their safe custody. (Cf. *E.R.* xi. 348*, 349*.)

[2] He also collected the fines for lack of suit and presence, and poinded for these if necessary. (Cf. *E.R.* i. 441; xi. 327*; *A.D.C.* xi. 57*r*; xiii. 124*v*.) He was similarly responsible in England and in Normandy. (Cf. Powicke, *Loss of Normandy*, 88.)

[3] Cf. 'Item . . . to send the ix extretis of Inuernes to the schireffis for the inbringing of thaim.' (*T.A.* i. 386.)

[4] Cf. *E.R.* xi. 325*-326*; *L.A.R.* i. 63. See also the remissions in *R.S.S.* i. 1778, 1807.

[5] *E.R.* i. 4-5 (and marginal note), 32; vi. 92; xi. 313*, 321*. Similarly he was not responsible if the case did not initiate in his sheriffdom (*E.R.* i. 32). There were similar arrangements in England. (Cf. *Dialogus de Scaccario* in Stubbs, *Select Charters*, 9th edn., p. 226.)

[6] *A.P.S.* ii. 177, c. 7; cf. *E.R.* xi. 309*. In 1493 we find the Justiciar ordering the sheriff to flog a boy, found guilty of slaughter, '*usque ad effusionem sanguinis*,' because the boy was too young '*ad mortem pro crimine Justificari*.' (Justice Ayr Transcripts (Register House), i. 20.) This was the usual punishment for minors in such cases. (Cf. *A.P.S.* ii. 251, c. 13.)

[7] See the *Iter Camerarii* in *A.P.S.* i, 694.

[8] *A.P.S.* ii. 47, c. 1; 48, c. 3.

royal revenue were carried out by the sheriff. The early revenue of the Crown was chiefly derived from sources known as 'ordinary,' taxation being considered an 'extraordinary' source to be drawn upon only in emergency.[1] The ordinary revenue came from the Crown lands, thanages, feudal dues, profits of justice, escheats, profits on merchandise, and occasional compositions of various kinds, and for the collection of all this revenue the sheriff had become responsible as early as the reign of Alexander III.[2] In specific directions, however, other officers gradually intervened in divers ways.

For the issues of his court (casualties, fines, and forfeitures) the sheriff had to account yearly at the Exchequer, producing his books,[3] though later such issues were compounded in a fixed sum, called the 'Book,' for each sheriffdom.[4]

Almost from the first the sheriffs were responsible for

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[1] The general principle was that the King 'ought to live of his own,' and as late as 1367 Parliament affirmed that 'the King can and ought to live without oppression of the people' [*i.e.* by taxation]. (*A.P.S.* i. 502*a*.) This accounts for the revocations by Parliament of alienations and other grants, and their consent to alienations. (Cf. *A.P.S.* ii. 31*a*.) Later, a distinction was drawn between 'annexed lands' incapable of alienation, and 'unannexed lands' which could be disposed of at the King's pleasure. (*A.P.S.* ii. 42*a*, 146*a*.)

[2] *E.R.* i. 1-34.

[3] In addition to producing his books the sheriff had also to declare his account on oath. (Cf. the accounts of 1501 in *E.R.* xi. 307*, 309*, 313*.) For failure to appear at the requisite time he was liable to fine. (*E.R.* xi. 304*.) There is no trace of this procedure in the present record, but in the Linlithgow Sheriff Court Book, 1541-1561 (MS. Register House) there are endorsements for each year running '*Apud Edinburgh xx^o Augusti anno etc v^o Quinquagesimo quinto Productus fuit Iste Liber Coram dominis auditoribus Scaccarii.*' (f. 49". Similarly ff. 99", 123".)

[4] Cf. Clerk and Scrope, *History of the Exchequer* (1820), 159; Purves, *Revenue of the Scottish Crown* (ed. Rose), 35. We find traces of these compositions as early as 1501. (Cf. *E.R.* xi. 316*, 319*.) In England, fines of court had been fixed in composition as early as the reign of Henry II. The decree of the Lords Auditors of Exchequer in 1528 seems to indicate that the sheriffs had been too prone to plead deforcement when they were short in their accounts. (*E.R.* xv. 666.)

the collection of taxation. In 1326, when Robert I. was granted for life the 'tenth penny' of the rents of burgesses and freeholders,[1] the royal letters for inbringing the tax were directed to the sheriffs, whilst any who regarded the valuation of Alexander III. (upon which the tax was based) as excessive in their own case could apply to the sheriffs for a new assessment.[2] Similarly when the 'Contribution of Peace,' which arose out of the peace of 1328, was levied at the same rate as the aid granted in 1327, namely according to the 'tenth penny of old extent,' the sheriffs were responsible for collecting both the 'tenth penny' and the 'contribution,' accounting for both in their returns, though special auditors were appointed for the 'contribution.'[3] Again, in 1373, the sheriffs collected and accounted for a contribution of one shilling in the pound from their sheriffdoms, raised in order to try and pay off the arrears of David's ransom.[4] In 1490 the sheriffs are stated to be responsible for the collection of taxation from the lords, barons and freeholders within their sheriffdoms,[5] and in subsequent taxations their activities in this respect can be clearly traced.[6]

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[1] *A.P.S.* i. 475.

[2] The valuation of land, or 'extending,' was one of the ordinary duties of the sheriff, and was generally carried out by an assize who gave their oath upon the 'extent.' Thus, in 1295, we find a jury of fifteen deciding the extent of certain lands in Nairn '*juratos magno sacramento interveniente.*' (*Thanes of Cawdor*, p. 3.) The Act of 1424 laid down that the sheriffs should call the barons and freeholders of the King, and with their counsel should choose discreet and leal men to aid them in extending the lands for the tax then imposed (*A.P.S.* ii. 4, c. 10); but apparently the sheriffs were not trusted to extend for the tax of 1468, since special persons were appointed for each sheriffdom (*A.P.S.* ii. 90). For examples of the extending of lands for taxation before a 'condigne assyss' see *infra*, App. G; *Collections for a History of Aberdeen and Banff* (Spalding Club), 113-121; *Bannatyne Club Misc.* iii. 427-431. That land was extended for taxation from very early times is clear from such terms as *carrucata terre*, *bovata terre*, and the more precise 'mark land,' 'pennyland,' etc.

[3] *E.R.* i. cviii, 102-108, 257; *A.P.S.* i. 491.

[4] *E.R.* ii. 417 ff.

[5] *A.P.S.* ii. 218, c. 4.

[6] Cf. *infra*, pp. 62-63, 259-260, 271-272, and App. G.

Where the royal demesnes included 'forest,' [1] the sheriff was frequently 'sheriff and forester'—a dual office. There is an early reference to John of Hastings as sheriff and forester of the Mearns,[2] and in 1382 Robert II. granted the office of sheriff and forester of Clackmannan to William of Menteith,[3] whose father, John of Menteith, had been 'sheriff of Clackmannan and forester of the Forest.' [4] In the sheriffdom of Selkirk (The Forest) the two offices may have been separate at first,[5] but in 1334 Edward III. certainly considered them as conjoint when he appointed Robert of Maners as sheriff of Selkirk and keeper of the King's forests of Selkirk and Ettrick.[6]

In the *Cambridge MS.* it is considered that '*autre escheatour ne doit estre fors tant soulement Viscount & ses seriantz*,' [7] and in his ordinance of 1305 Edward I. directed that the sheriffs should 'execute the office of escheatry as usual.' [8] Nevertheless we have no evidence of the sheriff fulfilling this function in early times. In 1289/90 the account of the sheriff of Ayr refers to an escheator, Alexander of Glasgow,[9] who was apparently escheator south of the Forth,[10] and during the Edwardian regime, despite the direction of the ordinance, there were two escheators for the two divisions of the realm—north of the Forth and south of the Forth.[11]

[1] The word *forest* in charter language usually means merely a range having certain privileged protection for the preservation of game.

[2] *Spalding Club Misc.* v. 210.

[3] *A.P.S.* i. 564, c. 11; Fraser's *Stirlings of Keir*, 200.

[4] *May*, Intro. lxxiv-lxxv, citing a transcript in Hutton's Collections (National Library). The dual office continued into the seventeenth century. (*Retours*, Clackmannan, Nos. 41, 52.)

[5] In 1264×1265 Hugh of Abernethy was sheriff of Roxburgh and forester of the forest of Selkirk north of the Tweed (*E.R.* i. 29), whilst in apparently the same account Alexander of Sinton appears as sheriff of Selkirk (*E.R.* i. 30).

[6] *Rot. Scot.* i. 271*b*.

[7] *Scot. Hist. Soc. Misc.* ii. 37.

[8] *A.P.S.* i. 120; Bain's *Calendar*, ii. 1691.

[9] *E.R.* i. 47.

[10] Presumably he is the 'Alexander of Glasfrith,' escheator south of the Forth, in Bain's *Calendar*, ii. 409.

[11] *Ibid.* ii. Nos. 594, 595, 1427, 1768, 1909, and p. 225.

The sheriff was apparently excluded, and upon one occasion, at least, we find a note of sheriffs who have interfered (presumably *ultra vires*) with the escheator's office.[1] In 1315 Robert I. addressed a writ '*Camerariis · Justiciariis · vicecomitibus · prepositis · Escaetariis et eorum balliuis ceterisque ministris nostris*' [2]; in 1327 an escheator is mentioned in the account of the bailies of Rutherglen [3]; and in 1330 William Oliphant was '*escaetor domini regis*,' probably north of the Forth, with Reginald More as his companion in office, probably south of the Forth.[4] The separate official, however, seems to have disappeared about this time, and the sheriff apparently took over the office for his sheriffdom. This was analogous with the English practice, which was definite after 1341.[5]

What remuneration did the sheriff receive for his office? In England the *Provisions of Oxford* [6] and the *Statute of Westminster I.*[7] laid down that the sheriffs should take no reward for office but should be paid out of that which they brought in to the King. An arrangement somewhat similar appears to have prevailed in Scotland. In the early accounts, and occasionally in later ones, there is reference to the 'sheriff's fee' (*feodum*), a varying sum paid out of his issues. But the sums written down as 'fees' bear no ratio to the 'oneration' side of the account. In 1359 the whole receipts of the sheriff of Ayr amounted to less than £21, but he wrote his fee as £15 [8]; whilst in Fife, in 1388, although the receipts were £52 (of which the court issues were £40) the sheriff only took £10 as his fee.[9] The

[1] Bain's *Calendar*, ii. 1427.
[2] *Holyrood*, No. 86.
[3] *E.R.* i. 71.
[4] *E.R.* i. 247, 297. The Queen at this time had her own escheators. (*Ibid.* i. 380, 430.)
[5] *Eng. Hist. Rev.* xxxvi. 218-222.
[6] Stubbs, *Select Charters* (9th edn.), 382.
[7] *Statutes of the Realm*, i. 33, c. 26.
[8] *E.R.* i. 584-585.
[9] *E.R.* iii. 166.

evidence seems to point to fixed sums, based on charter [1] or custom.[2] The amount was never large: £20 appears to have been the maximum,[3] and as a general rule the payment was £5 a term or £10 a year. That the fee was supposed to come definitely out of the issues, however, is quite clear. In the account of the sheriff of Stirling for 1359 there is an entry '*Nihil hic allocatur computanti pro feodo suo per totum tempus compoti quia nihil presentauit de exitibus curie*' [4]; in 1371 the fee of William of Dischington, sheriff of Fife, is paid to him, not out of his account, but by the Chamberlain '*ex eo quod non potuit habere infra balliam suam, pro fabrica sancti Monani*' [5]; and in 1501 the fee of £10 paid to the sheriff of Inverness is defined as '*de exitibus curie sue.*' [6] On the other hand, it must be admitted that there are frequent instances of the payment of a fee when there were no issues of court.[7] Both Craig [8] and Bisset [9] refer to the *feodum vicecomitis* as the shilling in the pound for decrees and distraint for debt fixed by Parliament at the end of the fifteenth century [10]; but it is clear that the payments we have been considering were of a different nature.[11]

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[1] In 1502 William Ruthven, sheriff of Perth, received a charter granting him 20 marks a year as his fee of office. (*R.S.S.* i. 785.)

[2] In 1359 the sheriff of Aberdeen protested against the amount which was allowed to him as his fee, stating that for many years past he had always received £20. (*E.R.* i. 547.) In 1373 the fee of the sheriff of Perth is referred to as '*quod antiquitus dari et percipi consueuit*,' the amount being augmented '*ad presens de voluntate regis.*' (*E.R.* ii. 425.)

[3] Sir James Lindsay, sheriff of Lanark, had a fee of £20 a year for life. (*E.R.* ii. 585, 622; iii. 32, 82.)

[4] *E.R.* i. 577.

[5] *E.R.* ii. 358. At that time he was acting as clerk of works to David II.'s building of St. Monans. (*Ibid.* Intro. cvii.)

[6] *E.R.* xi. 317*.

[7] Cf. *E.R.* i. 555-559 (Perth); 569 (Peebles); 573-574 (Clackmannan).

[8] *Jus Feudale*, I. ix. 3; III. ii. 19.

[9] *Rolment of Courtis* (Scot. Text Soc.), i. 243, 245.

[10] *A.P.S.* ii. 225, c. 11; 242, c. 10; 250, c. 10.

[11] Mr. Malcolm (in *S.H.R.* xx. 294 *n.*) appears to have misread *Dunfermline* No. 85 where the sheriff is exacting a fine for lack of *suit*.

Quite distinct from the 'fee,' lands held *reddendo administrationem justicie* were also generally attached to the office. The lands of Kerse were attached to the sheriffship of Clackmannan and passed with the office whenever it changed hands[1]; the lands and barony of Cavers were attached to the sheriffship of Roxburgh[2]; and the lands and barony of Sinton long went with the sheriffship of Selkirk.[3] Such a holding of lands (generally a barony) can be dated back to the early period of baronial sheriffships, while payments similar to the '*piscaria dicta Schireffeith*'[4] indicate that further emoluments not infrequently accrued.[5]

All these endowments, however, must have been of small account when compared with the value placed upon the office.[6] Other gain there must have been, and we are forced to the conclusion that this gain can only have come through questionable impositions or 'pickings.' In 1456 the sheriffs were forbidden to take distress of poor people attending fairs,[7] and this form of extortion must have been deep-rooted since it was again the subject of legislation in 1469.[8] But the greatest gain would undoubtedly

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[1] Cf. *R.M.S.* i. App. ii. 1192, 1146; *Cambuskenneth*, No. 64; *B.P.* 16.

[2] Fraser's *Douglas Book*, iii. Nos. 347, 395; *R.M.S.* i. App. ii. 1928; *Hist. MSS. Comm.*, 7th Report, 726 ff. (MSS. of James Douglas of Cavers); Chalmers' *Caledonia*, iii. 99 ff.

[3] Bain's *Calendar*, ii. 1681 and *R.S.S.* i. 493.

[4] *E.R.* xi. 332*. Cf. the payment to Sir Walter of Berclay noted in *L.A.R.* i. 401-402.

[5] The 'sasine-ox' exacted *secundum morem patrie* (*Aberdeen*, i. 177) is a well-known example. (Cf. *E.R.* ii. 297; *Echt-Forbes Charters*, p. 77; *Thanes of Cawdor*, p. 164; *L.A.R.* i. 371.) In 1633 we find a composition of 50 marks paid instead of the ox. (*Hist. MSS. Comm.*, 12th Rep., App. viii. 109.) There appears to have been no statutory authority for this exaction, though it was generally observed (*Jus Feudale*, II. vii. 26) and was recognised by Parliament in 1639 (*A.P.S.* v. 610).

[6] See *supra*, p. xxxvii.

[7] *A.P.S.* ii. 46, c. 9.

[8] *A.P.S.* ii. 95, c. 9. In a dispute before the Privy Council in 1573 the office of sheriff is stated to include the 'proclaming or ryding of fairis'

lie in the administration of justice. There the 'pickings' could be considerable, and we have ample evidence that in many ways justice was only obtained at the sheriff's price. An Act of 1504 refers to the great sums for process demanded by the sheriffs, resulting in a denial of justice to the poor,[1] and it may be that the scale of fees was the scale of capacity to pay.[2] In execution, too, the sheriffs undoubtedly helped themselves liberally,[3] whilst on the other hand offences might be condoned for a due consideration paid. Naturally there is little trace of such transactions,[4] but a near approach thereto is to be found in 1390, when the sheriff of Inverness apparently demanded and received payment at an increasing rate purely for performing his duty, namely protecting the Church lands and rents '*contra omnes malefactores viros kethranicos et alios quoscunque cujuscunque status vel conditionis*:'[5] an arrangement which eight months later was revoked under the great seal

(*R.P.C.* ii. 257), while a later entry describes 'Andro Makky burges of Striveling . . . being standand at the barras port of the said Burgh, to await as ane appointit for uptaking of the sheref feis as use is in tyme of fairis.' (*Ibid.* 418.) In 1665 the Lords of Session found 'that all the shirreffs in Scotland who wer in use to uplift ane exactione called the shirreff gloves hade right therto by prescriptione albeit ther was no mentione of it in ther gift,' while 'Sheriff-gloves' are stated to be 'ane fie which the shirreff hath for keeping of the fair quyet.' (Law MS., Breadalbane Collection, Register House, f. 15*r*.)

[1] *A.P.S.* ii. 250, c. 11.

[2] Cf. the Act of 1592 which states that sheriffs must give 'sasingis and retoures at ressonable prices without exorbitant extorsioun.' (*A.P.S.* iii. 554, c. 28.) In February 1576 we find that a precept of summons to the Fife sheriff court cost no less than 14s. (MS. Fife Sheriff Court Book, Nov. 1575-Aug. 1576, f. 66*v*.)

[3] Cf. the parallel case of coroners and the escheats of condemned persons in *A.P.S.* ii. 177, c. 7.

[4] But cf. Pitcairn, *Criminal Trials*, i. pt. i. 63. Similarly a hanging might be bungled for a bribe, and there are cases of miraculous recoveries which suggest this. On the other hand, in certain instances the sheriff seems to have received a fee of 5s. for each execution, perhaps to ensure thoroughness. (Cf. *E.R.* i. 442, and the accounts given at the end of Bain's *Calendar*, vol. iii.) In England a payment was made to the sheriff for his presence at executions. (Morris, *op. cit.* 116.)

[5] *Moray*, No. 170.

because the lands were not defended under it, but were even wasted.[1]

It is a fundamental principle in the administration of justice that no judge should receive payment direct from the profits thereof, but apparently until the Heritable Jurisdictions Act of 1747 the greater part of the sheriff's remunerations arose in that way. The multitude of appeals and the clamour of the people [2] show that justice was often both delayed and denied. On the other hand, as the present record shows, the sheriffs not infrequently administered justice with an impartiality surprising for the time.[3]

THE SHERIFF-DEPUTE

Probably from the earliest times the sheriff-principal appointed some subordinate officer whom he could depute to act in his stead, and towards the end of the thirteenth century official titles such as *vicecomes deputatus*, *locum tenens vicecomitis*, *subvicecomes* and *vicecomes substitutus* are to be found here and there in the records.[4] Of this early office we know little, save that it was soon recognised by the central authority,[5] and although these deputes were chosen and created solely by the sheriff-principal [6] there

[1] *Moray*, No. 172. Well might the scribe add as a rubric to the agreement, '*Inutilis et dampnosa provisio pro terris et decimis ecclesie Moraviensis ex qua sequebatur ipsarum finalis destructio.*'.

[2] *Infra*, pp. ci-ciii.

[3] William Meldrum appears to have been a particularly impartial and conscientious sheriff-depute. (Cf. *infra*, pp. 255-256, 266, 270-271.) Probably an honest sheriff found office a financial burden, and as late as 1637 we find the sheriff of Elgin asking to be relieved of office because of his 'great losse and charges . . . quhairby he is greatly hurt and damnified.' (*R.P.C.* 2nd Series, vi. 498.)

[4] Often, a source of difficulty in tracing early sheriffs, the depute is simply styled *vicecomes*.

[5] Cf. *E.R.* ii. 463; *Aberdeen*, i. 136. The Act of Parliament of 1357 which laid down that sheriffs should have good and sufficient officers for whom they were responsible may be held to include deputes. (*A.P.S.* i. 492*a*.)

[6] Cf. the charter to Sir Robert Erskine giving him power to appoint a sheriff-depute under him. (*R.M.S.* i. 318. And see *ibid.* ii. 305.)

are frequent confirmations of appointment by the King.[1] Apparently no definite tenure of office was laid down, since appointments can be found for life, for a term of years, or heritable. Deputes, however, could not appoint other deputes to sit either under them or with them ; all appointment lay through the sheriff-principal alone.[2] In the case of heritable sheriffships sons were frequently appointed deputes under the father so that they might sit on the bench and learn the intricacies of the law. And in the present record, while Patrick Lord Lindsay of the Byres and his son John Lindsay of Pitcruvie were sheriffs-principal of Fife *conjunctim et divisim*, sons of Patrick Lord Lindsay and of John Lindsay the Master were sheriffs-depute.[3]

The sheriff was personally responsible for his deputes. Skene writes, 'All schireffs sall have gud and sufficient deputes or baillies, for quhom they sall answere . . . and generallie it is trew that ilk scheriff and uther ordinar judge salbe halden to answer for their deputes, as themselves.'[4] This was admirable in theory, but where the central authority had such small hold on the sheriffs themselves it was little likely that the sheriffs could be brought to book for offences of their subordinates. In 1536, admittedly, the sheriff of Forfarshire was condemned to lose his office for three years and to be imprisoned at the King's will (the statutory penalty) for a false sentence given by one of his deputes, but a remission was immediately granted him.[5] And in a later case, when the Lords of Secret Council,

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[1] *R.M.S. passim ; R.S.S. passim.* According to a legal manuscript of the latter half of the seventeenth century 'His Majestie may appoynt deputs in anie shyre albeit the shirreff have pouer to nominat and creat deputs. . . . And hardlie can his Majestie creat deputs quher ther is ane heretabill shirreff yet *de facto* he did it in apoynting Sir James Keith shirreff deput of Angus albeit Southesk was heretabill shirreff ther.' (Law MS., Breadalbane Collection, Register House, f. 14*r*.)

[2] *Act. Dom. Aud.* 170.

[3] *Infra*, pp. 203-205.

[4] *D.V.S.* s.v. *Schiref.* See also *A.P.S.* i. 492*a* ; ii. 94*b*, 358*b*.

[5] *R.S.S.* ii. 1957. Similarly cf. *A.D.C.* xvi. f. 163*v*.

having directed letters to the sheriff-depute of Lanark to do justice in a certain cause only to find that that officer was at the horn for treason and lese-majesty, complained to the sheriff-principal that his officers should be 'oure Soverane Lordis fre liegemen that ar nether foirfaltit nor denuncit rebellis and at the horne,' they found that the sheriff-principal himself was in ward within the castle of Edinburgh.[1]

The office was one of steady growth in powers and responsibilities. In 1450, when Sir Alexander of Hume was appointed sheriff-depute of Berwick, his powers were defined to include 'schyref-courtis within the said schyrefdome to set, proclame, and halde; al maner of brevis and borowis to execute, trespassouris to punys, eschetis and amerciamentis to rase and inbring, and for thaim to strenye if nede be, al men and thair gudis, inhabitantis the said schyrefdome, before quhatsumever juge or jugis thai be athachit, to borow and bring again to the fredome of the said schyrefdome of Berwic; and al uthir and sindry thingis to do and til use that to thyr office of Schyreff-depute be law, use, or custom is knawen to pertene and that I [the sheriff-principal] mycht do myself in propre persoun.'[2] The sheriff-principal, in fact, tended more and more to become a figure-head, presiding occasionally at the head courts, but leaving the other courts and the majority of his other duties to his deputes,[3] generally two in number,

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[1] *R.P.C.* ii. 63-64. Similarly in 1584, when the sheriff of Forfarshire and his depute refused to pay into the Exchequer £371 of taxation which they had collected, it was reported that the sheriff-principal 'is already sa oft denuncit [*i.e.* put to the horn] that he takis na regaird thairof.' (*R.P.C.* iii. 666-667.)

[2] *R.M.S.* ii. 305. See also the appointments in *L.A.R.* i. 110-111.

[3] *Supra*, p. xxi. Professor Hannay has called my attention to an action brought before the Lords of Council and Session in 1546 in which David Spens of Wormistone, sheriff-depute of Fife, is referred to as 'principall rewller and ordowrar of all materis and actionis' before the sheriff of Fife. (*A.D.C. & S.* xx. f. 142*v*.)

sometimes only one, sometimes as many as five and six.[1] This movement culminated eventually in the Act of 1747.

In the sixteenth century the deputes generally held office 'induring the schiref principallis will.' Such appointments were renewed from year to year, and the later Act of 1540 laid down that when so continued in office the deputes should be yearly sworn *de fideli administratione* at the Michaelmas head court.[2] No method of appointment can be found in the present record,[3] but the working of the Act of 1540 can be clearly traced in the later Fife records and elsewhere.[4] Strictly, the oath could be received only by the sheriff-principal himself,[5] although upon occasion we find him commissioning other officers to receive it.[6]

So closely is the office connected with the sheriff-principal that at the beginning of the seventeenth century the deputes of Edinburgh after the death of the sheriff-principal, by whom they were appointed from year to year, were unable to exercise office until, owing to the delay of justice, special dispensation was granted them to continue therein while the King was pleased to declare his royal will touching the appointment of a new sheriff.[7]

In addition to the ordinary deputes, special deputes were occasionally appointed to hold office either for a particular case or for a particular time.[8] Such appointments were frequently made in order to counteract any exception of partiality or consanguinity [9]; occasionally they were made

[1] Holding office *conjunctim et divisim*. Hence the frequent references to deputes 'ane or ma.'

[2] *A.P.S.* ii. 358, c. 8.

[3] *Infra*, pp. 14, 40, 43.

[4] Cf. MS. Linlithgow Sheriff Court Book, 1541-1561 (Register House), ff. 52*r*, 98*r*, 124*v*, etc.

[5] Cf. *L.A.R.* i. 454.

[6] Cf. *supra*, p. xxi, *note* 5; and see also the case of the clerk, *infra*, p. 176.

[7] *R.P.C.* (2nd Series), ii. 117.

[8] 'The said day the said Sref principall creat Robert Oudny Your a Sref deput of the said Srefdome for the desyre of this day etc.' (*L.A.R.* i. 445.)

[9] *Infra*, pp. 272-273, and see *L.A.R.* i. 232. In one case we find an appeal brought before the Lords of Council to the effect that because the sheriff was

in order that the court might derive advantage from the depute's special local knowledge in such actions as removing and cognition.[1]

The office was considered one of dignity and honour. Lindsay, in his *Historie of Squyer Meldrum*, finally describes his hero's appointment to office :

> 'Schyref depute he wes in Fyfe :
> To everie man ane equal judge,
> And of the pure he was refuge ;
> And with justice did thame support.'[2]

That the office was coveted can be judged from the miniature battle which ensued when the sheriff of Linlithgow appointed a new depute, John Livingstone, over the head of Alexander Stewart, the then holder of the office. Livingstone, having seized the sheriff-clerk (a requisite officer), fortified the tolbooth and held it 'as ane hous of weir' against the offended Stewart who, finding himself outmanœuvred, eventually had recourse to the Privy Council.[3]

There is no evidence to show what remuneration the sheriff-depute received. In 1374 we find Sir William of Cunningham, *locum tenens* of the sheriff of Ayr, receiving a 'fee' paid over by the chamberlain,[4] but this fee could be explained in other ways. The fact that the office was occasionally purchased from the sheriff-principal[5] would

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of kin he could not even appoint special deputes to try the case. The appellant, however, had signed a document stating that he was content both with the deputes and with the inquest, and the appeal was dismissed. (*A. D. C.* x. ff. 142 ff.)

[1] Cf. *L. A. R.* i. 127, 173, 204.

[2] Lines 1538-1541. This is probably the William Meldrum who appears as a depute in the later portion of the present record. As a comment on Lindsay's description see my note *supra*, p. liv, *note* 3.

[3] *R. P. C.* ii. 94-95, 106.

[4] *E. R.* ii. 463.

[5] William Hay, the Master of Erroll (later 4th Earl) was made a sheriff-depute of Aberdeen by John, 6th Earl of Crawford, upon arrangement in part payment of a debt of 440 marks. (*L. A. R.* i. 420.) See also *Antiquities of Aberdeen and Banff*, iv. 393 *n*.

seem to preclude any remuneration in the form of a salary from the superior, at any rate in later times. It may be assumed that the depute had his own scale of fees somewhat similar to those of the mair,[1] and, as in the case of the sheriff, he probably looked to his 'perquisites' to bring him in no inconsiderable return.

THE SHERIFF-CLERK

The sheriff-clerk appears on record in the latter half of the thirteenth century. The office seems at first to have been purely personal, the *clericus vicecomitis* being much in the nature of a private secretary.[2] Early clerks were generally churchmen, a class which alone knew the mysteries of penmanship.

With the development of the office, however, a struggle soon ensued over the question of patronage. Skene states that 'be the auld law of this realme, the schireff-clerke was in-put and out-put be the King, and had na league nor bande with the schireff, but was bound and oblished to the King allanerlie,'[3] and such a relationship would be only natural, for upon the sheriff-clerk devolved the duties of record and finance, both of extreme importance to an impecunious government. But in both these aspects of administration, and certainly in the latter, the sheriff also was interested, and thus a struggle arose between the central and the local authority for the right of appointment, a struggle which was not settled in the sixteenth century.[4]

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[1] *Infra*, App. F.

[2] Cf. *Dunfermline*, No. 196; *E.R.* i. 1, 47.

[3] *D.V.S.* s.v. *Schiref.*

[4] Cf. *R.P.C.* i. 273-274; *L.A.R.* i. 466-472. In 1532 Richard Clerk was made sheriff-clerk of Fife for life by the sheriff-principal, 'because he is of his choosing and inputting,' and the appointment was confirmed by the King. (*R.S.S.* ii. 1202.) But in 1537 it was the King who took the initiative in appointing James Anderson to the self-same office (*ibid.* 2263). See also the royal appointments in *R.S.S.* i. 2783, 2905; ii. 957.

In the present record,[1] however, as also in the later Fife records and the records of Aberdeen,[2] the sheriff seems to have elected his clerk solely upon his own authority, whilst in the latter half of the century the clerk, like the other officials of the court, was continued in office from year to year, taking the oath *de fideli administratione* at successive Michaelmas head courts.[3] For his clerk, as for his deputes, the sheriff was personally responsible.[4]

The sheriff-clerk attended all meetings of the court and duly entered the proceedings in the court books. He was one of the 'keys' of the court and no meeting was legal without him.[5] All the records were in his custody, their possession being regarded almost as the insignia of office,[6]

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[1] *Infra*, pp. 14, 176, 205.

[2] *L.A.R.* i. 110-111.

[3] MS. Fife Sheriff Court Books (Cupar-Fife).

[4] Cf. the discharge of David Greigour, *infra*, p. 176. Referring to the Act of 1587 Mackenzie states that 'in the time of this *Act*, Sheriffs had the nomination of their own Clerks; but now since the Sheriff Clerks are nominated by, and depend upon the Secretary, it is not just that the Sheriff should be Fineable for the fault of the Clerk.' (*Observations*, 248, Act 71.)

[5] Cf. *R.P.C.* ii. 106; *Moray*, No. 179. And see Craig, *Jus Feudale*, III. vii. 20.

[6] In an action by the sheriff-principal of Perth against Master Alexander McBrek, 'pretendit' sheriff-clerk of the sheriffdom, the sheriff claimed that by virtue of his office the custody of the books, seal of office, and signet should pertain to him, whilst the clerk had purchased letters 'without cognition in the cause' commanding the sheriff to deliver to him the books, seal, and signet. The Lords of Council decided that the seal, signet, and taxt roll (*court book* deleted) pertained to the sheriff, but that he must hand over to the clerk the court books of the sheriffdom. (*A.D.C.* xxxiii. f. 124*v*.) Professor Hannay has called my attention to a later case before the Lords of Council and Session in which the sheriff-principal of Banff brings an action against Sir Walter Ogilvy of Byne who, alleging himself depute, withholds the court books, producing in support a letter of tack of the two offices (sheriff and coroner). The Lords ordered Ogilvy to deliver up the court books prior to the period of the tack, and the clerks of court to make two authentic court books for the five years of the tack. (*A.D.C. & S.* xxv. f. 70.) In Linlithgow, in June 1556, 'the schiref principall foirsaid in Jugement sittand dischargeit henrie foulis of the office and schiref clerkschip of the schirefdom of Linlythgow & Requirit fra him the court buke thairof & all uthir rolmentis of court being with him sen his entres/quha in presens of the haill court and assessouris deliuerit the samyn buke to the schiref principall alanerlie but ony uthir bukis usit be him in the

and from them he was required to supply, upon demand, copies of the proceedings, or 'rolment,' of the court.[1]

In the present record it is clear that notes only were taken in court, and that the full account was written up afterwards. Cases are left with details incomplete; some cases finish abruptly half-way through; whole pages are at times left blank for a record which was never entered; and the chronological confusion towards the end of the book is clearly due to the haphazard entry of royal letters.[2] A further interesting feature in this record is that the first clerk, David Greigour, apparently held a dual office as sheriff-clerk and sheriff-depute.[3]

Once more we do not know what were the 'profittis feis dewiteis and casualiteis' attached to the office. In one or two of the earlier sheriffs' accounts there are references to a *feodum clerici*, apparently 40s. a year,[4] but such payments are exceptional. Probably, like the other officials of the court, the clerk relied upon the fees he was able to exact to bring him in a return for the burden of office.

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said office.' (MS. Linlithgow Sheriff Court Book, 1541-1561 (Register House), f. 88*r*.) That there was, in addition, a tendency by officers to treat the records as their own personal and private property is clear from the case of the Aberdeen court books referred to by Dr. Littlejohn. (*L.A.R.* i. xxvi-xxvii, 191, 297, 305, 310, 325-326.)

[1] Cf. *infra*, pp. 174-175. In a case against the sheriff-clerk of Lanark, 1523, it was laid down that 'gif ane Clerk of the schiref-court . . . gevis furth divers copies of ane rolment of court, discrepant or contrare the ane to the other, he may be callit befoir the Lordis of Counsall, and rigorouslie punisht thairfoir.' (*B.P.* 274, c. 12, and cf. *infra*, p. 292 *in fine*.) In 1518 the sheriff court books of Perth were in the hands of a private individual and were apparently being used for the extraction of erroneous rolments by the connivance of one of the deputes. (*A.D.C.* xxxii. f. 25*r*.)

[2] On folio 6 *verso* the clerk, having begun a somewhat lengthy record only to remember that he has already entered up the case, promptly hands over the completion of the entry to some subordinate, who faithfully copies the original entry word for word. In the later Fife records we find the clerk appointing clerks depute. (Cf. MS. Sheriff Court Book of Fife, April 1575-Nov. 1575, ff. 16*r*, 27*r*.)

[3] *Infra*, pp. 14, 176. We find him sitting as a depute on several occasions, *infra*, pp. 7, 11, 12, 36, 58, etc.

[4] *E.R.* i. 550, 553; iii. 267.

THE MAIR AND THE SERGEANDS OR 'OFFICERS'

The mair is undoubtedly an earlier officer than the sheriff. He is pre-feudal. The word itself indicates a Roman origin: it is the Latin *major*,[1] though in Middle Latin it was corrupted to *marus* or *maurus* and the form *major* usually reserved for the later burgh official.[2] The early office was one of dignity and importance.[3] The mair was a direct representative of the King in the localities. William the Lion ordered his mairs of Galloway to collect his cane from that province[4]; Malcolm IV. addressed his writs '*uniuersis vicecomitibus suis et maris*'[5] (the mair performing certain duties later assigned to the sheriff when the districts had been erected into sheriffdoms); and in the reign of Alexander II. the Earl of Fife was mair of the King in the earldom of Fife.[6]

But with the advent of the sheriff the mair lost his status as an independent royal officer. He became a subordinate officer to the sheriff and, save in certain instances where the office was held heritably by important families, gradually further declined in status until he became merely one of the suitors of the court assigned to

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[1] Professor Watson has expressed his opinion that the *mormaer* was not a 'great mair' but a 'mair of the sea,' a sea-steward, the former part of the word being derived not from *mór* (big), but from the compositional form of *muir* (sea). (Cf. *Celtic Place-Names of Scotland*, 1926, pp. 110-111, 501.) This raises an interesting question as to the extent and organisation of the sphere of office of the Roman Count of the Saxon Shore. (See the review by A. O. Anderson in *Aberdeen University Review*, xiv. p. 231.)

[2] The index to the first volume of the *E.R.* fails to distinguish between the two officers.

[3] Wyntoun, speaking of the measures taken by William the Conqueror in England after the Battle of Hastings, refers to 'earls, barons, and mairs' as those of greatest influence in the realm. Although writing of England he is undoubtedly using Scottish parlance. (*Chronicle* (Historians of Scotland), VII. ii. 121-125.)

[4] *A.P.S.* i. 378, c. 23.

[5] *Glasgow*, i. 14.

[6] *A.P.S.* i. 398, c. 2.

the office,[1] generally, though not always, the suitor from particular lands.[2]

By the Act of 1430 a mair of fee,[3] whether mair of the whole sheriffdom or part, had power to appoint deputes under him.[4] For these deputes he was personally responsible,[5] and for administrative purposes the sheriffdom seems to have been divided into 'quarters,' each under a mair-depute or 'mair of the quarter.'[6] Thus, Forfar was divided into Dundee, Kirriemuir, Brechin, and Arbroath[7]; Fife into Eden, Leven, Dunfermline, the constabulary of Crail, and Inverkeithing[8]; Perth appears to have been similarly divided,[9] as also Ross,[10] Kincardine,[11]

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[1] Cf. *infra*, pp. 84, 206.

[2] Thus, '*Reddendo annuatim pro Estir Kennet servitium unius maris sive majoris feodi in curiis vic. de Clakmannane.*' (*R.M.S.* iii. 1658. And see *E.R.* xiv. 537, 595.)

[3] The *mair of fee*, as opposed to the *mair*, was strictly a heritable mair who had the right by charter to certain fees in the execution of his office. (Cf. Mackenzie, *Observations*, 24, Act 112; and see *infra*, pp. lxv-lxvi.)

[4] *A.P.S.* ii. 17, c. 1. (Cf. *R.M.S.* i. 623.)

[5] Cf. *L.A.R.* i. 135.

[6] The Act of 1430 speaks of some sheriffdoms having a mair in one ward [quarter?] and not in another. (*A.P.S.* ii. 17, c. 1.)

[7] *E.R.* ii. 419-420; Purves, *Revenue of the Scottish Crown* (edit. Rose), 142-146.

[8] Purves, *op. cit.* 151-156. See also the taxt roll of 1517. (*Infra*, App. G.) In the present record there are references to the mair of Eden (*infra*, pp. 14, 81, 99), and the mair of the constabulary of Crail (*infra*, p. 206). There is also a reference to the mair and sergeand of Kinghorn (*infra*, p. 121), a survival of the old constabulary of Kinghorn (*infra*, p. 300: 121, and cf. *E.R.* iv. 463). The stewartry of Fife was similarly divided into the quarters of Eden, Auchtermuchty, Falkland, and Largo, each under a sergeand or mair (*E.R.* v. 679-680; vi. 368), and later a quarter of Lindores was added. (*E.R.* xiv. 4-5, 158-159.) The 'quarters,' it should be added, were not necessarily restricted to four (though four was a natural number), but might be as many as five or six. 'Quarter' simply meant a 'side,' and sometimes we find such designations as the 'west side,' thus showing that the prevalence of the number four was probably due to the cardinal points of the compass. In 1366 there is a reference to the '*quarterius de Fortheryf infra vicecomitatum de Fyf.*' (*R.M.S.* i. 218.)

[9] Cf. *E.R.* ii. 41, 335, 423-425; *Hist. MSS. Comm.*, 7th Report, 708, No. 51.

[10] *E.R.* xiv. 83-84; xv. 253-256, 320-323.

[11] *E.R.* ii. 42, 74, 75.

and Aberdeen.[1] To these 'mairs of the quarter' the title of 'sergeand' or 'officer' was frequently given [2]: sergeand, officer and mair being synonymous terms.[3] Lands were attached to the office, usually called *mairsland* or *mairstown*,[4] and the office was generally heritable.[5]

The mair might be described as the 'orderly sergeant' of the sheriff court. He executed every kind of summons,[6] carried out poindings [7] and arrestments,[8] denounced rebels and put them to the horn,[9] 'bekenned'

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[1] *E.R.* ii. 35-36. [2] Cf. *R.S.S.* ii. 1379, 1605, 1878.

[3] Thus, 'John Hatlee sergeandus sive marus' (*E.R.* v. 480), and 'seriand and mayr' (*Aberdeen*, i. 389). The offices seem to be regarded as one and the same in the Acts of 1432 and 1436 (*A.P.S.* ii. 22, c. 11; 23, c. 4). In 1617 Hugh Kennedy was retoured heir to his father of his lands together with '*officio sarjandi et Majoris feodi, lie serjand and Mair of Fey office*' of the bailiary of Carrick. (*Retours*, Ayr, No. 161.)

[4] *Mairslands* or *Mairstowns* can be traced in all the quarters of Fife. In 1375 a royal charter was granted to William Herowart 'of the office of mair of the east quarter of Fife with the land called the *Mairtown* annexed to that office' (*R.M.S.* i. 623), and in 1391 a charter was granted to William Fernie of the office of mair of fee of Crail with the land of *Martoun* and the acre called *Pulterland* belonging to the said office. (*R.M.S.* i. 816.) These lands were held of the King in return for the office (cf. *infra*, pp. 115, 182), and though the size of the lands probably varied there are many references to 'le serjand aker' (*R.S.S.* i. 1562) or 'one acre of land called *le serjand-land*' (*E.R.* xiv. 537). It is to be noted in addition that the office not only gave its name to the lands but also originated the surname *Mair*. (Cf. *R.M.S.* i. 623.)

[5] Cf. *infra*, p. 84.

[6] *Infra*, pp. 2, 13, 81, 196, 228. Skene defines him as 'ane officiar, or executour of summondes.' (*D.V.S.* s.v. *Marus.*) He could not execute any summons outwith the sheriffdom. In such cases a special messenger was sent and proclamation made at the market cross of the head burgh, though it is difficult to see how this could have been effective.

[7] *Infra*, p. 29; *L.A.R.* i. 63-67.

[8] *Infra*, pp. 13, 100.

[9] *L.A.R.* i. 94, 98. But cf. *infra*, p. 179. In 1510 the 'Kingis sergeand of the scherefdome of Peblis' made proclamation of certain letters under the privy seal at the market cross of Peebles. (*Peebles Records*, Burgh Rec. Soc., i. 42-43.) The designation 'King's sergeand' is interesting. In England the King's sergeands plead the King's pleas before the Justice Eyre; and in 1359 in the account of the sheriff of Kincardine we find '*Item, allocantur computanti, pro vno amerciamento vnius seriandi, transeuntis de licencia justiciariorum ad introducendum vnum latronem in eodem itinere, xl s.*' (*E.R.* i. 587), whilst the '*serjandus de feodo*' of the sheriffdom of Lanark is stated in 1365 to have

widows to their terce,[1] made arrests,[2] gave sasine,[3] and, like the *Gerichtsbote* of the German *Weistümer*, called the suits.[4] His insignia of office were a horn and a wand[5]; later, a signet ring engraved with his initial.[6] The wand was given him by the sheriff in open court, and was his sign of authority in the execution of his office.[7] It was to be carried by him when on duty, and special regulations were laid down as to its size and colour.[8] Balfour informs us that if the mair acted without his wand then he lost his share of the casualties which otherwise would have accrued to him.[9] If hindered in the execution of his office the mair broke his wand as a sign of deforcement.[10]

The perquisites of a mair of fee were generally enumerated in his charter. In Renfrew, in 1494, the mair (who was also coroner) was stated to receive 'from ilk persone haffand ane pleuch within the said schir ane thraiff of aitis and ane lam or iiij đ. of thaim that has na lammes & Ilk half

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received annually for his fee £5 sterling either out of the issues of the sheriff court or out of the issues of the justice-ayr held annually within the sheriffdom. (*R.M.S.* i. 199.)

[1] *L.A.R.* i. 56.

[2] *A.P.S.* ii. 23, c. 4.

[3] *Spalding Club Misc.* iv. p. 7, No. 4.

[4] *Infra*, App. I.

[5] *A.P.S.* ii. 17, c. 1; 22, c. 11.

[6] *A.P.S.* ii. 359, c. 9 (1540). But as early as 1483 we find one of the mairs of the sheriffdom of Aberdeen stating he has no seal of his own and borrowing the seal of office of the sheriff-depute. (*Echt-Forbes Charters*, p. 77.)

[7] In the *Assise Regis Willelmi* the King's mairs of Galloway held a *virga regis* (*A.P.S.* i. 378, c. 23). In the Isle of Man the coroner had a wand which he returned upon resignation of office (Train, *Hist. Isle of Man*, ii. 209), and in England the sheriff held a wand of office the surrender of which to the Justices in Eyre was tantamount to dismissal (Bolland, *General Eyre*, 38; *Eyre of Kent*, (Selden Soc.), i. 4). The wand plays an important part in all mediæval legal procedure and is still in evidence to-day on ceremonial occasions.

[8] *A.P.S.* ii. 22, c. 11. See the interesting details of the wand of the sergeand in the charter of James III. to Glasgow, 1476. (*A.P.S.* ii. 190, No. 8.)

[9] *B.P.* 271, c. 13.

[10] Cf. *Dunfermline Burgh Records* (ed. Beveridge), f. 44. Later, apparently, he had a ring upon his wand which he slipped from one end to the other in token of deforcement. (Cf. Scott's *Antiquary*, chapter 42.)

pleuch a stouk & sa furth accordin to thar malingis,' [1] whilst similar dues were received by the Dunbars as heritable mairs of Moray.[2] In addition to these older payments in kind, however, the mair and his officers received 'feis privilegis casualiteis and dewiteis' for the many duties they performed. That such fees were not inconsiderable can be seen from the extract printed below.[3] Apparently nothing escaped their eager fingers, and their diligence in this respect invoked the scathing comments of Skene.[4]

THE DEMPSTER

In the Celtic system the complement to the *maer* was the *judex*, an officer of at least equal dignity. The *maer* was the executive officer, the *judex* the judge. The office arose through a community having its own customary law (before the formation of a national law), of which the *judex* was the repository.[5] In the *Assise Regis Willelmi* we find the *judices* of Galloway performing their proper office—declaring the laws of that province [6]; and in 1220 Alexander II. held an inquiry in the presence of all the *judices* of Scotland (*Scotia*) to decide the forfeitures of those who had remained away from the host at Inverness.[7] Usually the office was heritable, jealously passed down, together

[1] *Act. Dom. Aud.* 192*b*.

[2] *Retours*, Elgin and Forres, No. 22.

[3] *Infra*, App. F.

[4] 'Bot now the said office is given in fee and heritage to maires of fee, quha knawis nocht their office, bot are idle persones, and onely dois diligence in taking up of their fees, from them to quhom they do na gude, nor service to the King.' (*D. V.S.* s.v. *Marus.*)

[5] Cf. the chapter on *Franchises* in Vinogradoff, *English Society in the Eleventh Century* (1908).

[6] *A.P.S.* i. 378, cc. 22, 23. Galloway had its own 'special lawys.' (*A.P.S.* i. 403.) Similarly in the Isle of Man the deemsters proclaimed the 'Breast Laws,' so called because the laws were unwritten and were preserved only in the deemsters' breasts.

[7] *A.P.S.* i, 398, cc. 2, 3.

with the tradition of knowledge, from father to son.[1] The *judex* was frequently a witness to royal charters,[2] and at times he was not only *judex* but *dux* also.[3]

In 1124×1136 David I. commanded his *judices* of Fife to decide the quarrel between the monks of St. Serf and Sir Robert Burgonensis in the presence of the men of the locality,[4] and in 1128×1138 he ordered his *judex* to be present at the courts of the abbot of Dunfermline '*ut placita et justicie juste tractentur*'[5]—a legal and administrative duty later assigned to the sheriff and his officers. There can be little doubt that the *judex* performed many of the functions of the sheriff prior to the institution of that office, and it is possible that in some instances the *judex* later became sheriff.[6]

But the development of feudalism, the growth of national law and, with it, written court record brought about a gradual decay.[7] The sheriff administered a new law and as judge he superseded the *judex*.[8] The office was no longer necessary though, as Mr. Malcolm has suggested, the *judex* possibly performed for a while the functions of an assessor,

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[1] The surname was derived from the office. Thus, *Fergusius Judex* (1295); *Fergusius dictus Demster* (1309); and Fergusius Dempstare (1430). (*Thanes of Cawdor*, pp. 3, 4, 11.)

[2] *St. Andrews*, 128 (1160×1162); *Dunfermline*, No. 19 (1128×1136).

[3] In 1124×1136 Constantine, Earl of Fife, was '*magnus judex in Scotia.*' *St. Andrews*, 117 (*L.C.* No. 80). See also Robertson, *Scotland under Early Kings*, i. 26 ff.

[4] *St. Andrews*, 117. (*L.C.* No. 80.)

[5] *Dunfermline*, No. 15. (*L.C.* No. 105; *A.P.S.* i. 85.)

[6] Mr. Malcolm (*S.H.R.* xx. 137 *n.*) cites Meldoinneth (Maldounus) and Ewayn as *judices* who received appointments as sheriffs. But Maldounus *vicecomes* is Maldounus de Scona, and he is clearly distinct from Maldounus *judex*, as Lawrie has shown. (*L.C.* 57, 63, 318, 327, 330, 349.) Ewain, so far as I am aware, occurs only as *vicecomes* (*St. Andrews*, 132; *Scone*, Nos. 5, 17), though he *may* be the Hywanus macmallothen of *St. Andrews*, 128.

[7] An exactly similar decline of the office can be traced in the Isle of Man. (Cf. *Manx Soc. Trans.* iii. 82-98, 107.)

[8] Note the fierce struggle of the Isles against the imposition of sheriffs and Scottish law, 1503-1506.

his presence being 'valuable both for his knowledge of customary law and of the vernacular.' [1]

From assessor to dempster, or declarer of the law or judgment of the sheriff, was a natural step. The *judex* became the *judicator*. But the office was still one of dignity and standing [2] with lands and fees attached, and the dempsters of the sheriff court of Forfar were also the dempsters of Parliament, tracing a descent back to Adam, *judex* of the Earl of Angus, who, by 1227, had become Adam *judex domini regis*.[3]

Under the feudal system *all* the suitors of the court were originally its doomsmen. The suitors, the body of the court, were the *judices*, though in practice their functions might be assigned to a jury of *juratores* or *jurati* who, nevertheless, were held to give the verdict of the whole court.[4] This verdict was pronounced through the mouth (*per os* or *viva voce*) of the dempster,[5] who was himself one of the suitors of the court.[6] He had to be a man of upright

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[1] *S.H.R.* xx. 230. In England, in the famous trial at Penenden Heath (*c.* 1071) of the suit between Lanfranc, Archbishop of Canterbury, and Odo, Bishop of Bayeux and Earl Palatine of Kent, the King ordered the whole county to consider the matter without delay '*et homines comitatus omnes Francigenas et præcipue Anglos in antiquis legibus et consuetudinibus peritos in unum convenire.*' Amongst those present at the trial was '*Aegelricus episcopus de Cicestra, vir antiquissimus et legum terræ sapientissimus (qui ex præcepto regis advectus fuit ad ipsas antiquas legum consuetudines discutiendas et edocendas in una quadriga).*' Bigelow, *Placita Anglo-Normannica* (1879), pp. 4-9; *Anglia Sacra*, i. 334-336.

[2] The *judex* was one of the 'keys' of the court, and his presence was necessary for its legality. (Cf. *Moray*, No. 179.)

[3] *A.P.S.* i. 91; *Vetus Arbroath*, Nos. [228], [229], [306]; *R.M.S.* i. 758.

[4] Cf. Vinogradoff, *Villainage in England* (1892), 370.

[5] '*Et hoc per . . . judicem sententiari fecimus viva voce.*' (*Moray*, No. 143); '*per os . . . iudiciarii sive dempstarii.*' (*Cambuskenneth*, pp. 302, 304.) Cf. *infra*, p. 267.

[6] '*Reddendo . . . unam communem sectam ad curias vic. nostri de Fyffe, que ad voluntatem nostri et successorum nostrorum erit adjudicator, viz. le dempstare, in dictis curiis.*' (MS. Register of Great Seal, Register House, ii. No. 25. Cf. *R.M.S.* ii. 3427.) Balfour speaks of 'the suitar or dempstar' (*B.P.* 275, c. 17), and we find 'dempstar and soytour' (*A.P.S.* ii. 94*a*) and '*sectator seu judicator*' (*A.P.S.* ii. 257*a*). In the Parliament of 1505 the '*principalis*

character,[1] well qualified, ' of gude fame, and weill informit, to gif the dome be ane toung and ane mouth,' [2] and his doom had to be in accordance with the finding of the *jurati*.[3] In the early records there is trace of his official fee, which was usually 40s. a year.[4]

But as the suitors and the jury lost their power and the sheriff became an actual judge rather than a president of the court,[5] the office further decayed until the dempster occupied the lowest official position in the court, becoming, at the end of the sixteenth century, ' but a poore ignorant old beggarlie fellowe ' hidden away in some corner of the court until the time when, ' following the wourdes of the clerke,' he pronounced the doom.[6] Later still, he descended from being the giver of the doom to becoming its executor —the common hangman.[7] And soon thereafter the office disappeared altogether.[8]

THE *VICECOMES IN HAC PARTE*

Although the *vicecomes in hac parte* was not an officer of the sheriff court, it would appear advisable to indicate briefly the nature of his office. The designation ' *in hac*

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sectator seu Judicator' is called '*pro sua secta et seruicio faciendo*,' and being absent is fined £10. (*A.P.S.* ii. 257*b*.)

[1] Cf. *Moray*, No. 302.

[2] *B.P.* 276, c. 22.

[3] ' And there we the foirnemmed personis of the foirnemmed assyse, saw and harde that donald Johneston a soyttoure of the foirsaid courte, with the counsell and assent of all the soyttouris of it gaif for dome That etc.' (Bisset, *Rolment of Courtis* (Scot. Text Soc.), i. 314-315.) Cf. also *S.H.R.* xxii. 194.

[4] Fife (*E.R.* iii. 166); Aberdeen (*E.R.* i. 547, 552; iii. 267); Banff (*E.R.* i. 550); Forfar (*E.R.* iii. 270); Dumfries (20s. only, 1288 × 1290, *E.R.* i. 36).

[5] *Infra*, pp. xc-xci.

[6] *S.H.R.* xix. 159. Even in the present record his name suggests a man of humble status.

[7] In the justiciary court in the seventeenth century, when an executioner was appointed he automatically became dempster. He was called into court by the ringing of a bell and there he recited the sentence as recorded by the clerk, merely adding the formula ' This I give for doom.'

[8] There is no trace of any legislative enactment. When a holder of office died the office, being unnecessary, was probably not refilled. As early as 1570

parte' refers solely to the particular cause or action,[1] it has no geographical significance, and the Act of 1469, relating to the sealing of brieves, makes a distinction between officers of fee and officers *in hac parte*.[2]

Usually the 'sheriff in that part' was appointed for the service of brieves when objections of partiality or interest were raised against the sheriff of the shire [3] or when the subjects were scattered through various shires.[4] Thus we find sheriffs in that part calling juries and holding courts for brieves of inquest, terce, division and cognition.[5] The office is closely akin to that of the special depute already mentioned,[6] for both appointments were made *ad hoc*. But there was one important distinction—the special depute was appointed by the sheriff, whereas the sheriff in that part was appointed by the Lords of Council, was sworn in before them,[7] and was responsible only to the Lords of Council in the execution of his office.[8]

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in the burgh records of Dysart an entry records 'Here ceased the Dempstar and that office.' (*Records of Dysart*, Maitland Club, 24.) In other burghs the office generally lingered much later. In the sheriff court records references to the dempster are very scarce by the end of the sixteenth century, and he seems to have disappeared soon thereafter. In the justiciary court the office was abolished in March 1773.

[1] Cf. its use in the brieve of aqueductus (*A.P.S.* ii. 22, c. 2). Mr. Malcolm refers to a designation of 'Bailie specially deputed in that behalf' (*S.H.R.* xx. 295, citing Calendar of Charters (Register House), No. 256), but the appointment in that charter is simply '*balliuo nostro . . . per nos in hac parte deputato*.' An earlier appointment of a 'serjeand and bailie in that part' occurs in 1417 in the same collection (Calendar of Charters (Register House), No. 250).

[2] *A.P.S.* ii 95, c. 8. (Cf. Craig, *Jus Feudale*, III. ii. 12.)

[3] Cf. *A.D.C.* ii. 483; xiii. f. 68*v*.

[4] Cf. *Thanes of Cawdor*, 99-102.

[5] *A.D.C.* i. 58*b*, 217*b*, 335*a*; ii. 483.

[6] *Supra*, pp. lvii-lviii.

[7] Cf. *A.D.C.* i. 217*b*; xxvii. f. 90*r*.

[8] Cf. *infra*, p. 264. (Similarly cf. the decision in *A.D.C.* ii. 315-316, and the arrangements made in *A.D.C.* ii. 77.) In April 1517, in a Dundee (Forfarshire) action the sheriff in that part can scarcely be distinguished from a special depute. In this case sheriffs in that part were chosen by the sheriff-principal before the Lords of Council with consent of the two parties and were called 'deputes.' (*A.D.C.* xxix. f. 201*v*.) In an Aberdeenshire case of 1539 it is difficult to decide whether the court was held by a sheriff in that part or by a special depute. (*Antiq. Abdn. and Banff*, ii. 358.)

Since the sheriff in that part frequently held his court for lands scattered throughout various shires, and since he was an officer of the Lords of Council, the practice grew up of holding his inquests in Edinburgh.[1] This practice can be traced in the latter half of the fifteenth century[2] and before long became quite common.

The granting of commissions to sheriffs in that part, however, was soon the subject of grave abuse. The *Acta Dominorum Concilii* abound in actions which arose through the issue of letters to such sheriffs 'without cognition in the cause' whereby real injustices were committed. Apparently any applicant could obtain these letters without question asked,[3] and so avoid, if his cause was unjust, the more open procedure of the ordinary sheriff court. Frequently the letters which were issued directly contradicted one another.[4] There was no check on their issue or their commands. This laxity, however, quite apart from any considerations of justice, soon affected the judges ordinary in a diminution of court fees, and in 1540 the sheriffs-principal were given power to raise exceptions against the granting of commissions to sheriffs in that part before such commissions were granted.[5]

Later in the sixteenth century, the sheriff in that part appears principally as a messenger from the Lords of Session advocating cases to their court. As such he

[1] 'In presens of the lordis of counsale foresaid Comperit James logane Johnne scrimgeour maiseris & Thomas berclay & patrik baron and swore in presens of the saidis lordis that thai suld lelely and treuly minister in the office of schirefschip eftir the tenour of the commissione direct to thaim & to sit apoun the seruing of the brevis Rasit be Dauid Master Craufurd in the tolbuth of Edinburgh dispensand with the place as It war in the schirefdomis of forfar Inuernes Kincardin abirdene perth fiffe & berwic etc.' (*A.D.C.* xxx. f. 28*r*.)

[2] Cf. *Burgh Records of Stirling* (ed. Renwick), i. App. i. No. 40; *Melrose*, ii. App. No. 29.

[3] The usual phrase in appeal is 'be sinister informacioun.'

[4] Cf. *infra*, pp. 263, 264 (Lindsay *v.* Lundy); pp. 274-276 (slaughter of Elliston).

[5] *A.P.S.* ii. 360, c. 17.

approximates more closely to the mair, and both Bisset [1] and Mackenzie [2] identify the two officers. In this period the actual mairs of the sheriffdoms often received commissions constituting them sheriffs in that part for such purposes.

THE SUITORS OF THE COURT [3]

Suit of court was a feudal burden attached to the holding of land. The service required from any holding was defined in the *reddendo* clause of the charter, and an early law laid down that no tenant could be compelled to give suit or service '*nisi per formam carte sue.*' [4]

In the *Assise Regis Willelmi* a burden of court service for 'baronis knychtis and fre haldaris and the stewardis of bischopis abbotis and erlis' is imposed, somewhat indefinitely, for 'schiref mutis' [5]; but in the *Quoniam Attachiamenta*, when a distinction had been drawn between head courts and intermediate courts, the burden is associated more closely with the three head courts, and it is laid down that '*nullus sectator tenetur venire ad curiam . . . sine legali summonicione . . . quilibet tamen sectator ad tria placita capitalia sine summonicione venire tenetur.*' [6] Later still, an Act of 1430 refers to 'comperance' at the three head courts without any mention of courts intermediate,[7]

[1] *Rolment of Courtis* (Scot. Text Soc.), i. 137.

[2] *Observations*, 24, Act 112.

[3] My indebtedness to the article on 'The Suitors of the Sheriff Court,' by the late Sir Philip Hamilton-Grierson in *S.H.R.* xiv. 1-18, will be apparent, though I hope the following pages constitute a slightly further advance in our knowledge of a difficult subject.

[4] *Frag. Coll.* c. 19 (*A.P.S.* i. 732). Thus, '*secundum tenorem dicti infeofamenti.*' (*R.M.S.* ii. 3882.) An identical phrase is used in England in the *Provisions of Westminster*, c. I. (Stubbs, *Select Charters*, 9th edn., 390.)

[5] *A.P.S.* i. 377, c. 19. See also *Reg. Maj.* iv. 13. (*A.P.S.* i. 634.)

[6] *A.P.S.* i. 651, c. 19. But cf. Skene's edition, c. 33. Since the head courts followed a definite day-rule suit without summons would be automatic (cf. *Dunfermline*, No. 371; *anno* 1328).

[7] *A.P.S.* ii. 19, c. 21.

whilst Craig, writing at the end of the sixteenth century, speaks only of suit to head courts.[1] The principal burden undoubtedly lay at the head courts, but it is equally clear that suit was also paid to the intermediate sessions.[2] The attendance of a requisite number of suitors to make up the body of the court was an essential of every sitting.[3]

Freedom from this burden of service was enjoyed by certain holdings, notably those *in pura elemosina*[4] and in 'blenche ferme.'[5] Admittedly, isolated cases of service to the head courts can be found expressly attached to blenche holdings,[6] but there was a general rule that no tenant who had once entered a suitor could thereafter allege his lands to be held in blenche ferme.[7] This accounts for such formal protestations as that made by David Barclay of Touch.[8]

Lands held by 'ward and relief' necessarily performed the burden, even if it were not specifically expressed in the infeftment, for '*hoc inest* in the Nature of their Holding,'[9] and lands that paid suit of court were considered to be held upon tenure by ward and relief unless some other holding was defined.[10]

[1] *Jus Feudale*, I. x. 27, 32; II. iii. 33.

[2] Cf. *infra*, pp. 16-17, where an important action is decided at an intermediate court and the sheriff is 'avisit with his assessouris.' Assessors are frequently referred to at intermediate courts, and it is clear that they were suitors. (*Infra*, pp. lxxxix-xc.)

[3] *Infra*, App. H.

[4] Cf. *Moray*, No. 179. Other church lands were liable to the burden equally with temporal lands.

[5] *E.R.* xi. 349*; *B.P.* 279, c. 31; Mackenzie, *Observations*, 138, Act 71; *Spalding Club Misc.* ii. 95.

[6] Cf. *A.D.C.* ii. 438; *R.M.S.* ii. 2835; *Antiq. Abdn. and Banff*, ii. 368-372. See also the cases in *B.P.* 279, c. 31, and Morison's *Dictionary*, 15005. Of a similar nature is the burden in Fraser's *Scotts of Buccleuch*, ii. No. 112.

[7] *B.P.* 279, c. 31. See also *A.D.C.* xiv. ff. 175*v*, 178*r*.

[8] *Infra*, p. 2. (Cf. *L.A.R.* ii. 9.)

[9] Mackenzie, *op. cit.* 138, Act 71. (Cf. *R.M.S.* ii. 912; iii. 2769; iv. 2257.)

[10] See the remarks of Craig, *op. cit.* I. x. 27 *in fine*.

Each suit was paid for a definite piece of land,[1] and the suit took its name from the land.[2] When various fees were united and annexed into a single barony the suits due to the sheriff court remained the same in number unless the new charter made some specific change such as the sufficiency in future of one suitor for the whole barony.[3] In a like manner if a fee owing but one suit was divided among co-heirs, and a doubt arose as to the heir who should perform the suit,[4] each of the co-heirs had to contribute towards the completion of the suit in proportion to his share.[5] Fractional services such as '*cum tertia parte quarte partis unius sectatoris*'[6] partly arose in this way.

Sometimes service is expressed in general terms as 'sal pay . . . the soyte'[7] or '*reddendo annuatim sectam curie*,'[8] and suit of court was also understood in the indefinite '*servitium debitum et consuetum*.'[9] But one of five more definite designations, namely, general suit (*secta generalis*), common suit (*communis secta*), suit (*secta*), suit and presence (*secta et presentia*) and presence (*presentia*), is usually employed.

Secta generalis and *communis secta* seem to have entailed service to both intermediate and head courts: to the head courts without summons and with summons to the inter-

[1] Cf. the '*omnis secta debetur de certo loco*' of the Bishop of Moray in *Moray*, No. 179.

[2] When lands were united into one barony it was frequently laid down which of the lands should give its name to the suit. (Cf. *R.M.S.* ii. 3039; iii. 2484.) All suits were called by the lands. (Cf. the lists of absents, and see *infra*, App. I.)

[3] *B.P.* 277, cc. 27, 28. But see Mackenzie, *op. cit.*, 117, Act 93, though the 'observation' appears to proceed upon a misreading of the Act.

[4] By law this should be the heir obtaining the capital messuage.

[5] *B.P.* 276, c. 25; *Frag. Coll.* c. 20 (*A.P.S.* i. 732); Craig, *Jus Feudale*, II. xi. 18. Identically similar rules were laid down in England in the *Provisions of Westminster*, c. II. (Stubbs, *Select Charters*, 390).

[6] *R.M.S.* v. 1829. Similarly in England. (Cf. *Eng. Hist. Rev.* iii. 418.)

[7] *R.M.S.* ii. 473.

[8] *R.M.S.* ii. 3682.

[9] *B.P.* 477, c. 1; Craig, *op. cit.* II. iii. 33.

mediate.[1] The concession granted in a charter of 1364 that '*ubi ipsi tenebantur in communi secta ad curiam constabularii de Lynlithcu . . . de cetero teneantur tantum in tribus sectis per annum ad tria placita constabularii predicti capitalia apud Lynlithcu tenenda*'[2] seems to be quite clear; the proclamation at Stirling in 1502 makes a similar distinction[3]; and Skene in his edition of the *Quoniam Attachiamenta* limits the system of three essoins to common suit only, otherwise, as he points out, if three essoins were permitted for the three suits to the head courts no court service would be performed at all.[4]

It must be noted, however, that the Stirling proclamation identifies the service of common suit with 'small portioners,' and the connection between common suit and husbandlands is too frequent to be ignored.[5] Is it not possible that common suit was suit paid by small holders to make up the body of the court,[6] and that such small holders were burdened with the additional service of suit to the intermediate courts where less important work was transacted, and from which important cases could be continued, if necessary, to the head courts at which the more important lairds would be present?[7] The wording of

[1] Compare *R.M.S.* v. 2346 and *Aberdeen*, i. pp. 202, 215, with *R.M.S.* iii. 216. Since intermediate courts had no day-rule summons was necessary.

[2] *R.M.S.* i. 180.

[3] *A.D.C.* xi. 138*v*; *B.P.* 276, c. 24; *R.S.S.* i. 801. [4] C. 33.

[5] Cf. *Nigrum Arbroath*, Nos. 219, 360, 405; *Scone*, No. 144.

[6] The first meaning of *communis* is *common* or *ordinary*, and it may be that the common suitors had less say in the matters before the court. Thus we find common suit occasionally limited to the three head courts (*Hist. MSS. Comm.*, 3rd Rep., 387, No. 26; *R.M.S.* ii. 3680; Fraser's *Lennox Book*, ii. No. 26), which under such an interpretation is comprehensible. On the other hand the suit might be paid 'in common' by them all, and that all portioners had to be present is clear from such entries in the present record as 'personaris of A. except B.C.' (*infra*, pp. 1, 25, 65, 90, 234) or 'personaris of A. all except B.' (*infra*, p. 129). The suits from Pitdinnies (Pitdoneis) might be a parallel case (*infra*, pp. 1, 12, 129, 251), and we know that Porteous only held one quarter of the lands. (*E.R.* xv. 605-606.)

[7] Cf. *L.A.R.* i. 51, 52. The clear distinction is made in *Scone*, No. 144.

certain charters seems to suggest this.[1] It might also explain why the dempster was often a 'common suitor,'[2] possibly the suitor from one small piece of land which he held in return for his services.[3]

In the present record we find a list of absent suitors entered on three occasions at intermediate courts.[4] These lists vary, but the suits were clearly called from the ordinary suit-roll. There is no evidence to suggest that the lands owed suit of a special nature, and it would appear as though *all* suitors had been summoned to these particular courts.[5] Such a view gains strength when we note that the list occurs in one case immediately after the continuation of a head court for debility, with the important causes presumably still undecided,[6] in another case again immediately after a continued head court,[7] and in the third case after a court in which no causes, with the exception of a brieve for which an inquest had been specially summoned, were heard.[8] One important point to be noted in all cases is that the double service of 'suit and presence' does not appear to have been demanded. With these exceptions, there is nothing to indicate that suit was paid

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[1] Cf. *R.M.S.* ii. 3060; and '*dimedietas communis secte*' (*R.M.S.* ii. 2776).

[2] *R.M.S.* ii. 3427; iii. 760; *E.R.* xxi. 95-96.

[3] There is evidence that from early times the burden of suit came to be attached to and rendered for such definite small pieces of land (cf. *Dunfermline*, No. 444; *Spalding Club Misc.* iv. 126), and in certain instances the designation 'Soitourland' arose (*E.R.* xv. 621; *R.S.S.* i. 1562; Fraser's *Wemyss*, ii. No. 171). Similarly in England. (Pollock and Maitland, *History of English Law*, 2nd edn., i. 537-550.)

[4] *Infra*, pp. 28-29, 217-218, 227-228.

[5] A burden of service to the intermediate courts when summoned was sometimes specifically stated. Cf. *R.M.S.* i. 46, 51; iv. 1385, 2386; v. 791.

[6] *Infra*, p. 227. The deputes continue the court to the 22 October and at that court the list is entered.

[7] *Infra*, pp. 24-28. The marginal rubric runs '*continuatur curia ad penultimum instantis*,' and at the second court both sheriffs-principal were present.

[8] *Infra*, pp. 213-217. The court of 8 May 1521 was clearly specially held to try the case of slaughter; the two following entries are registrations only; and it is difficult to decide whether the court of 28 May was an ordinary court or not.

to the intermediate courts save the repeated phrase '*sectis vocatis*,' which was probably formal only.[1]

That *suit* was performed by proxy is indubitable.[2] Sometimes it is stated that the service is to be performed by a *suitor*[3]; the present record gives numerous examples of the entry of such suitors[4]; and the later Act of 1540 is quite clear.[5] The suitors who were entered had to be able to make sufficient and lawful record of process, dooms and judgment,[6] and, according to the *Quoniam Attachiamenta*, their qualifications were inquired into by examination at three courts before admission.[7] In this record, however, the baron generally appeared personally to present his suitor, who, upon admission, took the oath *de fideli administratione*.[8] By the early law a baron's suitor in the sheriff court could litigate and answer for his lord, and in the lord's absence could repledge his men.[9]

Sometimes a suitor was entered for one court only[10]; in some cases a baron might enter more than one suitor for the same lands[11]; and sometimes the one suitor might act

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[1] In the later Fife records there is no trace at all of suit to intermediate courts, though the formal phrase '*sectis vocatis*' is still retained.

[2] In England the *Statute of Merton* enacted that suit could be paid by attorney. *Statutes of the Realm*, i. 4, c. 10. For comparison with the Scottish regulations see also *ibid.* i. 8, 21-22.

[3] *R.M.S.* i. App. i. 88.

[4] *Infra*, pp. 2, 12, 34, 67, 94, etc.

[5] *A.P.S.* ii. 358, c. 6.

[6] *B.P.* 275, c. 19. Cf. *L.A.R.* ii. 9.

[7] *A.P.S.* i. 651, c. 22. In one case in the present record we find a suitor '*qui receptus fuit per vicecomitem.*' (*Infra*, p. 44.)

[8] The early form of the suitor's oath is given in *A.P.S.* i. 683*a*. See also *infra*, App. I. The 'style' of entering a suitor is given in *Kelso*, ii. No. 553.

[9] *A.P.S.* i. 650, c. 11.

[10] Cf. 'Patrick Patone . . . for this court.' *S.H.R.* xiv. 17.

[11] In the present record we find three different suitors entered for the lands of Clatto (Clatty) (*infra*, pp. 55, 117, 161) and two different suitors for the lands of Babbet (Bawbot) (*infra*, pp. 67, 94). The previous suitors may have resigned or died, but the service of '*secta ad tres curias nostras capitales . . . per se procuratores attornatos aut subtenentes suos plures aut unum nomine suo facienda*' (*Spalding Club Misc.* iv. p. 6, No. 111.) seems to indicate a custom of entering more than one suitor for the same lands.

for more barons than one.[1] But a vassal holding several infeftments was due to give so many several suits, 'because multitude of infeftmentis inducis and importis multitude of suits,'[2] and in the sheriff court of Aberdeen in 1616 it was laid down that 'in all tyme cuming that na member of Court be ane suteor; and that na man compeir as suteor bot for thrie barronis at the maist.'[3]

The usual *reddendo* clause for suit to the head courts ran '*Reddend . . . annuatim tres sectas ad tres curias capitales vic. de Fiffe.*' This implied one suitor at each of the three head courts.[4] Balfour states 'gif ony man aucht thre suitis, he sall compeir at thre heid courtis in the 3eir,'[5] whilst a service of '*sex sectas ad tria placita*' clearly meant two suitors to each of the head courts.[6] Sometimes the service was not so full, as in '*unam sectam ad 2 placita capitalia vic. de Abirdene.*'[7] In such cases the choice of head court might be left open,[8] or a specific head court might be mentioned.[9] The indefinite service '*sectas curie solitas et consuetas,*' that is according to the old charter, was held to mean suit to the three head courts unless special

[1] In the Fife court John Magask, senior, was apparently suitor for both Crombie (Crambeth) and Rosyth (Rossith). (*Infra*, pp. 57, 118.)

[2] *B.P.* 277, c. 28. [3] *L.A.R.* ii. 9.

[4] Sometimes we find an apparently impossible service of suit to *four* head courts annually. (Cf. *R.M.S.* i. 253; v. 1336; *Extracts from Burgh Records of Edinburgh* (Burgh Rec. Soc.), iv. 140.) There was an old legal procedure of 'the four head courts' (cf. *Cambuskenneth*, Nos. 211, 212), but the example given by Bisset shows that the courts followed the rule we have laid down, and that the procedure necessarily extended over more than one year. (*Rolment of Courtis* (Scot. Text Soc.), ii. 131-136.)

[5] *B.P.* 39, c. 2.

[6] *R.M.S.* iv. 746. Cf. '*per 2 diversas personas ad unamquamque curiam vic. Strivelin.*' (*R.M.S.* ii. 606.)

[7] *R.M.S.* ii. 3035.

[8] '*Reddend. annuatim unam sectam ad quamlibet 3 curiarum capitalium vic. de Edinburgh.*' (*R.M.S.* iii. 1779.)

[9] '*Reddend. annuatim unam sectam ad placitum capitale vic. Fyff apud burgum de Cupro post festum Nativitatis.*' (*R.M.S.* ii. 2820; cf. *ibid.* 3070.) In view of its importance it is natural to find that the Michaelmas head court is the one most frequently specified.

mention was made in the infeftment of some other service *ad formam et tenorem antiquæ cartæ*,[1] and suit '*statis diebus*' was similarly interpreted. In one case we find '*Reddend. annuatim regi pro dicto annuo redditu unam sectam curie capitalis vic. de Wigtoun*,'[2] which is clearly an incidence of burden.[3] Suit to the head courts was rendered *sine summonicione*.[4]

In England a money composition soon came to be paid in lieu of service,[5] and traces of this can be found in Scotland. There is a general payment for all service in '*Reddend. annuatim dicte Eliz. 14 sol. 4 den. pro omni warda relevio secta etc.*,'[6] whilst the later '*Reddend . . . 6 sol. 8 den. pro sectis curie de Rescobie vulgo the switerfie*'[7] is quite definite. This payment in lieu of suit of court might, however, form the remuneration of another suitor, since a mark or half a mark appears to have been a customary fee paid to suitors for their service.[8]

In some cases court service is defined as *presence*.[9] All the varieties of service which are to be found in *suit* can also be found in *presence*—occasional obligation to attend at intermediate courts when summoned,[10] attendance at

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[1] *B.P.* 477, c. 1.

[2] *R.M.S.* v. 172.

[3] In 1502 the Lords of Council apparently agreed that when lands were held of a superior lord merely upon a mail rent, the suit was to be performed not by the holder but by the owner who rented them to him. (*A.D.C.* xiii. f. 124*v*.)

[4] *Supra*, p. lxxii and *note* 6. There are isolated cases of suit to the head courts only when summoned (*R.M.S.* iii. 2065), or even only when summoned in writing (*R.M.S.* iv. 2853). In England suit was paid to the 'great counties' *sine summonicione*. (Pollock and Maitland, *op. cit.* i. 537 ff.)

[5] Stubbs, *Constitutional History* (4th edn.), i. 428-429; Maitland, *Select Pleas in Manorial Courts* (Selden Soc.), p. 28.

[6] *R.M.S.* iv. 702.

[7] *R.M.S.* v. 896.

[8] Cf. *Rentale Sancti Andree* (Scot. Hist. Soc.), 92, 168, 176; *Rentale Dunkeldense* (*ibid.*), 50, 57; *Spalding Club Misc.* iv. 126; Bain's *Calendar*, iii. pp. 343, 391. Payment of the suitor might account for the protest noted by Grierson. (*S.H.R.* xiv. 12, note 88.)

[9] '*Reddend . . . cum presentia ad duas curias capitales.*' (*R.M.S.* iv. 1292); '*Comparendo in 3 placitis capitalibus.*' (*R.M.S.* v. 604.)

[10] *R.M.S.* v. 681.

head courts only when summoned,[1] and attendance at less than the three head courts.[2] Moreover, the service of *presence* could be performed by attorney,[3] and frequently an optional service of *suit* or *presence* is prescribed.[4] There appears, in fact, to be little difference between the two services, and at times *suit* and *presence* are used as transferable terms.[5] If a distinction did exist, *presence* would naturally be regarded as of greater importance than *suit*,[6] and it is perhaps significant that in the records of the justice-ayr of Lauder, 1493, the fine for lack of *presence* was assessed at £10, whilst that for lack of *suit* was only 40s.[7] Certain of the evidence seems to indicate that *secta* was at first the term for personal presence and *sequela* that for the entry of a suitor,[8] but later the two terms become synonymous and are even used upon occasion for court service of any nature whatsoever.[9]

Suit and presence meant that in addition to sending a suitor the baron also had to attend.[10] The *reddendo* clauses run '*Faciend. sectam et corporalem presentiam*,'[11] or '*venien-*

[1] *R.M.S.* iii. 2937. [2] *R.M.S.* v. 2348.

[3] *D.V.S.* s.v. *Actornatus*. (Cf. *R.M.S.* iv. 136; v. 1265; *R.S.S.* i. 919.)

[4] *R.M.S.* iii. 2545, 2636; iv. 2417; *Kinloss*, pp. 95, 127; and cf. the service stated in *Scone*, No. 177. The service of '*secta ad tres curias nostras capitales . . . per se procuratores attornatos aut subtenentes suos plures aut unum nomine suo facienda*' (*Spalding Club Misc.* iv. p. 6, No. III.) shows that *suit* could be performed by *presence*.

[5] Cf. *R.M.S.* v. 1265. In one or two instances we find *suit* to head courts and *presence* at the intermediate. (Cf. *R.M.S.* vi. 363, 564.) In 1504 a tenant protested to the Lords of Council that he owed 'na presens becaus he duelt nocht within the schir' (*A.D.C.* xv. f. 195*r*). Here *presence* may be used as a general term for court service, though the exaction of this particular form of service from a freeholder resident in some other shire would be sufficiently onerous to warrant a rule.

[6] Cf. *Aberdeen*, i. 169; *Vetus Arbroath*, No. [339]. But see note 5 above.

[7] Justice Ayr Transcripts (Register House), i. pp. 1-10. In other cases, however, the two fines are the same.

[8] Cf. *Moray*, No. 114.

[9] Cf. Fraser's *Lennox Book*, ii. No. 10; *Dunfermline*, No. 85.

[10] '*Ad comparendum in propria mea persona vel per actornatum cum uno sectatore.*' (*Reg. Hon. Morton*, ii. 180.) [11] *R.M.S.* ii. 228.

tes cum presentia et facientes tres sectas in anno,' [1] or '*cum sectis et presentiis*.' [2] The baron and his suitor had to be in court at the same time. Skene states, 'For he quha aucht baith sute, and presence in onie court, suld nocht onlie send an sutour to decide actions and causes, conforme to the law, but also suld compeir personally, or send an actornay,' [3] and in the justice-ayr suits were called 'And ilka lard ande his soyt / gif ony be absent amercy the absent / Ande gif baith be absent amercy ilk ane be thame self.' [4] In the list of *absentes* for the Aberdeen Michaelmas head court of 1616 we find :—

> D de Fortrie D. p. Jon Lyndsey . . . his suteor present
> D de Petfoddells D. p. Johne Menzes his suteor present,[5]

whilst the present record affords further proof.[6]

Suit and presence is seldom demanded in the *reddendo* clauses of charters; but in the lists of *absentes* at head courts in this volume and in the later Fife volumes the entries are almost without exception fines for lack of *suit and presence*, whilst the occasional fines for lack of *suit* or lack of *presence* may be indicative of the separate attendance of the baron or the suitor respectively in cases where both should be present. It would almost appear as though *suit and presence* was the normal service obligatory at head courts, and perhaps when a service of *suit* was demanded *suit and presence* was understood thereby.[7]

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[1] *R.M.S.* ii. 3227. [2] *R.M.S.* v. 1895.

[3] *D.V.S.* s.v. *Actornatus*. Cf. *Reg. Hon. Morton*, ii. No. 229.

[4] *A.P.S.* i. 707. See also Martine's description of the calling of the suits in the head courts of the regality of St. Andrews. (*Reliquiæ Divi Andreæ*, 116.)

[5] *L.A.R.* ii. 10. For the use of *D. p.* (*in defectu presencie*) see *infra*, p. lxxxv.

[6] John Spens of Lathallan (Lethalland) is several times fined for lack of suit at courts at which he himself was personally present and served on the inquest. (*Infra*, pp. 25, 90, 160, 165-166.)

[7] Cf. *A.D.C.* ii. 438, though unfortunately the case is obscured by the initial error of the stewart.

Failure to pay court service resulted in a fine.[1] Early recorded fines were 40s. in amount,[2] and payment could be enforced under distraint.[3] Later, fines of £10 become frequent,[4] and even higher sums,[5] until at the beginning of the seventeenth century £10 was fixed as a maximum by the Court of Session.[6] In the case of *suit and presence* a double fine was naturally incurred,[7] and although we have noted one instance in which the fine for *presence* was £10 and that for *suit* 40s.,[8] the general rule seems to have been an equal fine.[9] How much latitude was given to late-comers [10] we do not know, but in the legal memorandum printed below it is stated that absentees are only to be fined if they do not come ' befoir the arysing of the court,' and the doom upon them is only to be pronounced ' quhill a lyttill befoir ' such arising.[11]

At first these fines for absence appear to have been enforced,[12] but in later times the huge lists of absentees, together with the complete lack of any record of such fines in the sheriffs' accounts, seem to indicate that the penalty was abortive. Even if the fines were enforced it is clear that many of the freeholders, especially those living in

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[1] Amercement was laid down in the *Assize Regis Willelmi* (*A.P.S.* i. 377, c. 19). See also *Dunfermline*, No. 85 (1256), and *Act. Dom. Aud.* 77*b*.

[2] *E.R.* i. 553, 558; iii. 661. Cf. '*sub pena 40 sol. pro qualibet absentia*' (*R.M.S.* iii. 1980), and see *B.P.* 277, c. 29.

[3] Cf. *Act. Dom. Aud.* 77*b*. Similarly in England. (Maitland and Baildon, *The Court Baron* (Selden Soc.), 72; Stubbs, *Constitutional History*, 4th edn., i. 428.)

[4] Cf. *A.P.S.* ii. 13*b*, 15*a*, 16*b*, 98*b*; *A.D.C.* xiii. f. 124*v*; xiv. f. 174*r*; xvii. f. 218*r*.

[5] Cf. *L.A.R.* ii. 5, 6; *Spalding Club Misc.* ii. 135.

[6] Mackenzie, *Observations*, 28, Act 130; Morison's *Dictionary*, 7491-7492.

[7] *Supra*, p. lxxxi and *note* 4. We find such a double fine enforced as late as 1742 in the burgh court of Banff. *Annals of Banff* (New Spalding Club), i. 274.

[8] Justice Ayr Transcripts (Register House), i. pp. 1-10.

[9] *E.R.* xi. 345*, 348*, 354*; Justice Ayr Transcripts (Register House), i. p. 23.

[10] Cf. Burchard, *Die Hegung der deutschen Gerichte*, 122-123.

[11] *Infra*, App. I.

[12] *E.R.* i. 553, 558; *Act. Dom. Aud.* 77*b*.

distant parts of the sheriffdom, preferred to incur the fine rather than fulfil the burden of service.[1]

Suit of court was a definite burden and was always so regarded.[2] Exemptions from it can be found from early times,[3] generally granted as a reward or favour,[4] always considered a privilege.[5] In a few instances lands were granted on military tenure '*sine aliqua secta*' or '*absque secta curie*,'[6] but such initial exemptions appear to have been issued sparingly, a contrast to England where the King granted them so freely as to render assizes and justice impossible in many counties.[7] During periods of duty to the State temporary exemption was automatic,[8] whilst a limited exemption was generally granted to any suffering from infirmity,[9] or passing forth of the realm on pilgrimage.[10] In considering all exemptions the King doubtless remembered that suit was a financial gain, not only in the exaction of fines but also in the purchase of freedom from the obligation or in the payment of compositions in lieu of service.

Did all freeholders, then, holding by ward and relief (and occasionally by blenche ferme) owe service to the sheriff court in one or other of these forms? From the Act of 1430 it is clear that lands held of a lord of regality did not owe suit to the sheriff court, and that such suit was due

[1] An examination of the lists of absentees in the present record is instructive.

[2] Cf. *A.D.C.* xi. 138*v* (*B.P.* 276, c. 24), and see the *Petition of the Barons* in England in 1258. (Stubbs, *Select Charters*, 9th edn., 377, c. 24.)

[3] Cf. *R.M.S.* i. App. ii. 38.

[4] *R.M.S.* ii. 1809; *R.S.S.* i. 1725.

[5] *R.M.S.* ii. 320, 429, 733; *Dunfermline*, No. 389.

[6] *R.M.S.* i. 5.

[7] Cf. the *Petition of the Barons*, c. 28. (Stubbs, *Select Charters*, p. 378.)

[8] *L.A.R.* i. 105-106.

[9] *R.S.S.* i. 1349. Sometimes freedom from *presence* was given but the obligation to enter a suitor still enforced. (*R.S.S.* i. 2061, 2498.)

[10] *R.S.S.* i. 437, 1653. Such an exemption was also generally granted to those passing overseas or abroad, not necessarily on pilgrimage. (Cf. *R.S.S.* i. 1593.)

only from the lands of the royalty.[1] Craig limits the burden to those who '*in feudo de principe tenent*,'[2] and in disputes over court service reference is always to Crown charters and to lands which *tenentur de domino rege*.[3] Moreover, if the lands were *in manibus regis* service was not paid,[4] and rules were laid down to prevent escape from the burden by the creation of mesne holdings.[5] It is patent that the tenants of a barony paid suit to the baron court while the baron paid suit to the sheriff court for his barony. 'Of whom are the lands held' was the test.[6]

Suit was paid to the court of the sheriffdom in which the lands lay,[7] but lands in one sheriffdom (A) annexed to a barony in another sheriffdom (B) rendered suit along with the rest of that barony to the court of sheriffdom (B).[8]

[1] *A.P.S.* ii. 19, c. 21. Various confirmations of the freedom of regalities can be found. [2] *Jus Feudale*, I. x. 32 *in fine*.

[3] Cf. *E.R.* xi. 349*; *L.A.R.* ii. 4. Similarly the Act of 1458 on *suit and presence* in Parliament says 'No freeholder *that holds of the King* . . .' (*A.P.S.* ii. 50, c. 21.)

[4] *E.R.* xi. 384*; and see *infra*, p. 90. In two instances we find the sheriff of Edinburgh under the Edwardian regime allowed 6s. 8d. each for the suitors for certain lands '*in manu regis*.' (Bain's *Calendar*, iii. pp. 343, 391.) Is this to be taken as a fee (see *supra*, p. lxxix) paid by the sheriff to the suitors for doing suit although the lands were in the King's hands, or does it represent a payment *by the suitors*? In England certain customary payments were probably paid by the suitors of the county court whether they attended or stayed away. (Cf. *Eng. Hist. Rev.* xli. 594.) Could such payments account for the 'suitor fee'?

[5] Thus if a man held lands of the King for which he owed *suit and presence*, and he put his son in fee of the lands to be held of himself, he was still himself bound to render court service as the King's immediate tenant. (*B.P.* 277, c. 26.) Similarly cf. *E.R.* xi. 348*.

[6] Thus if lands were detached from a stewartry and erected into a barony the suit would be henceforth not to the stewart court but to the sheriff court. (Cf. *A.P.S.* ii. 267, c. 2; and see the *reddendo* in *A.P.S.* ii. 275*b*.) In 1502 the Lords of Council laid down that lands held of the King owed court service only to the King's courts and not to the court of any regality, etc., wherein they might lie; but that lands held of the regality owed suit to the regality court, etc. (*A.D.C.* xiii. f. 38*r*.)

[7] Cf. '*ad tria placita capitalia vicecomitatuum ubi terre jacebant*.' *R.M.S.* ii. 3636, 3406, 3446.

[8] *A.D.C.* i. 329*a*; *B.P.* 275, c. 16. But the Act of 1504 laid down that the tenants should answer for justice in the court of the sheriffdom where the lands lay despite the annexation. (*A.P.S.* ii. 246, c. 45; 253, c. 39.)

Occasionally 'for singular favour' the King might change the burden from one court to another more suitable,[1] and similarly when lands were detached from one sheriffdom and attached to another, it was generally prescribed that their court service should be paid in future to the court of the sheriffdom to which they were newly attached.[2]

The court opened with the calling of the suits, which was part of the procedure of fencing.[3] The lists of absentees show that suits were called in order from a roll,[4] and it would appear as though the suitors remained outside the court until, upon answering, they entered and took their places.[5] If a suit was called three times without answer the suitor was declared absent,[6] though apparently no fine was incurred provided he presented himself before the arising of the court.[7] In the lists of absentees lack of *suit* is entered as *s* or *D s* (*in defectu secte*), lack of *presence* as *p* or *D p* (*in defectu presencie*), and lack of *suit and presence* as *sp* or *D sp* (*in defectu secte et presencie*).

In the early county court, both Scottish and English, the sheriff was only the presiding officer, controlling the procedure of the court and instructing the suitors in the rules and form of law.[8] The judgment of the court was the judgment of the suitors.[9] In the phraseology of the *Weis-*

[1] Cf. *R.M.S.* ii. 1241.

[2] *A.P.S.* ii. 243, 251, 268.

[3] Cf. Burchard, *Die Hegung der deutschen Gerichte*, 110, 134, 135 *n.* See also Skene's *Forme and Maner of Baron Courts*, c. I., and *infra*, App. I.

[4] This accounts for the phrase '*absentes patent.*' There are many references to suit rolls, even for Parliament. (Cf. *A.P.S.* ii. 33*b*.) The suit roll of the principality is referred to in *A.P.S.* ii. 221, c. 17.

[5] There are references to the calling of suits *from the tolbooth window*. (See *L.A.R.* ii. 11; *A.P.S.* iv. 6*b*; and cf. *Charters of Ayr*, p. 17.)

[6] Cf. *Reg. Hon. Morton*, ii. No. 229; *L.A.R.* ii. 11. Similarly in Germany. (Burchard, *op. cit.* 110, 134, 135 *n.*, 136-137.) See also *infra*, App. I.

[7] Cf. *supra*, p. lxxxii.

[8] *E.C.C.* 107 ff. For Scotland see *infra*, pp. lxxxviii-lxxxix.

[9] Maitland cites a case of 1226 in which the sheriff of Lincolnshire was obliged to adjourn the court because he had quarrelled with the suitors whose business it was to make judgment (*facere judicia*). (*Select Pleas in Manorial*

tümer the sheriff was *der Richter*, the suitors *die Urtheilfinder*.[1] The suitors, as we have seen, had to be able to make sufficient and lawful record of process, dooms and judgment. How far this 'record' was a consciously preserved minute of the proceedings, or how far it was merely the judgment, we cannot say, but in England in 1243 there is a significant entry of the fine of the suitors of the *comitatus* of Sussex '*quia non habuerunt recordum*.'[2]

THE JURY

It is possible that the jury system reached Scotland prior to the reign of David I.,[3] but even in the reign of that King our only evidence, namely the inquiry by '*auxilio et investigatione seniorum hominum et sapientiorum totius Cumbriae*' into the rights of the church of Glasgow, is not above suspicion.[4] The references to the *proportacio patrie vel visneti* ('assyse of the contre') which are to be found in the *Assise Regis David I.* are of later date.[5]

That the jury system would follow in the wake of feudalism is clear,[6] and in the reign of William the Lion there is

Courts (Selden Soc.), Intro. lxv.) In Scotland in the early appeal procedure known as 'Falsing the Doom,' it is to be noticed that when a judgment was found to have been 'evil gevin' it was the suitors who were fined. (Cf. *E.R.* iii. 267; *A.P.S.* ii. 114*b*, 117.)

[1] Later, as we shall see, there may have been a further distinction between the select body of suitors who gave judgment and the remaining suitors, that is, between *die Urtheilfinder* and *die Umstand*.

[2] *Cambridge Hist. Journal*, i. 105.

[3] Craig, led away by his zeal for the purity of Scottish feudal law, asserts that the jury system was known in Scotland '*ante Anglie conquæstum*.' (*Jus Feudale*, I. viii. 5.)

[4] *Glasgow*, No. 1. (See also *L.C.* No. 50 and pp. 299 ff.)

[5] *A.P.S.* i. 318, c. 6; 325, c. 35.

[6] Just as the remoter parts of Scotland, and those most wedded to the Celtic system, rebelled against the introduction of the sheriff as part of a new and revolutionary system of government, so also they strove, and for some time with success, to maintain a legal procedure of their own which did not recognise the jury. Particularly was this evident in Galloway. (Cf. *A.P.S.* i. 91; 378, c. 22; 403, c. 14; 482*b*; *R.M.S.* i. App. i. 59.)

record of an action decided before the King '*in plena curia mea apud lanarc per probos et antiquos homines patrie et legitimos testes*.'[1] These men were undoubtedly witnesses to fact[2] and represent a jury in its early form. By 1230 it is possible that the jury had definitely superseded the ordeal, and that the verdict of the good men of the country had usurped the judgment of God.[3]

At first it is difficult at times to distinguish the jury from sworn witnesses or even compurgators.[4] Pollock and Maitland make the broad distinctions that a jury had to swear to the truth, whilst the compurgator might refuse to take upon himself the burden of the oath; that the jury were chosen by and represented the court (*i.e.* the King), whilst compurgators were chosen by one or other of the parties.[5] But in Scotland the jury, who acted almost entirely as sworn witnesses, were frequently chosen by party (although actually summoned by the officers of the court), while as late as 1622 we find a case of compurgation in which the accused was adjudged by an assize to clear himself by six out of twelve persons nominated and chosen by the assizers, or by four out of eight chosen by them.[6] The oath is in all cases the connecting link (God guiding the tongue of the speaker), and jury, sworn witnesses and compurgators were in reality merely following oath ordeals.

Similarly it is difficult to say whether the early jury was chosen entirely from the attendant suitors or whether it could contain 'sworn witnesses' who were not taken from

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[1] *Glasgow*, i. No. 56.

[2] Cf. Craig's definition '*Qui medius inter judicem & testem*.' (*Op. cit.* II. xvii. 29.)

[3] *A.P.S.* i. 400, c. 6.

[4] Cf. *Dunfermline*, No. 196, and *Lindores* (Scot. Hist. Soc.), No. 23.

[5] *History of English Law* (2nd edn.), i. 138 ff.

[6] *Black Book of Taymouth*, 373 (cited Bisset, *Rolment of Courtis*, iii. 74 *n.*).

the body of the court.[1] The suitors were all representative local men, and undoubtedly there would be those among their number with particular knowledge of the facts. It would accordingly be natural to find the jury drawn from the body of the court, and it is easy to imagine them chosen upon such principles as, 'John, you know the lands that belonged to the father of A,' or 'Alexander, you know the boundary between X and Y.' Thus, in 1286, an inquest was carried out '*per tresdecim sectatores baroniarum comitatus de Aneguz & alios fideles patrie*,'[2] and in 1309 certain baronies in Fife were stated '*facere sectam curie . . . et ibidem tam de visnetis et dictamentis interesse quam ad alia judicia de condempnatis facienda.*'[3] And in the earliest inquests that have come down to us, while the jury gave their truth-saying, their verdict (*jurati in veredicto suo dixerunt*),[4] the judgment was the judgment of the 'fre tenandis soytoris of the court.'[5] In theory, perhaps, verdict and judgment might differ, but it is clear that in both theory and practice the judgment of the whole court rested upon the finding of the smaller body.

Theoretically, then, the full body of the court was still appealed to, but in reality the power rested in the hands of the smaller number which represented it.[6] The jury tended to be merely a committee of the suitors.[7] Nevertheless the decision was still that of the whole court, and the sheriff only the presiding officer.[8] Apparently at

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[1] Cf. Glassford, *Remarks on Constitution and Procedure of Scottish Courts of Law* (1812), App. ii. 242-243. In criminal actions the assize was clearly not chosen solely from the suitors.

[2] *Vetus Arbroath*, Original Charters, No. 7.

[3] *St. Andrews*, p. xxxi. [4] *A.P.S.* i. 98, 99. [5] *A.P.S.* i. 317, c. 4.

[6] Cf. Vinogradoff, *Villainage in England*, 370.

[7] See G. B. Adams, 'Procedure in the Feudal *Curia Regis*' in *Columbia Law Review* (April 1913), 286, note 30.

[8] Compare the forceful words of Dodu: 'ils étaient les véritables et les seuls juges . . . le jugement était l'œuvre de la Cour, non du vicomte. Les textes distinguent toujours avec soin le vicomte et la Cour . . . sa fonction

times no jury was empanelled, and in such cases the full body of the court gave their decision without a 'verdict.'

In the present record juries are to be found both for the service of brieves and for criminal actions, but in some cases, particularly those which later did not initiate upon a brieve from the King's Chancery, the sheriff is still 'awisit with his assessouris' before giving decree. Strictly, the 'assessors' should be the smaller body, the jury,[1] but although the designation seems to have been used indiscriminately to indicate either the jury or the suitors as a whole, it is generally the suitors who are implied in its use.[2] Such phrases as 'the schiref foirsaid avisyt with the baronis & assessouris,'[3] 'it wes considerit & clerely wnderstandine be the said schiref & assessouris of the haile court,'[4] 'the schiref deputis foirsaid awisit with the baronis frehaldaris & assessouris to thame decretit,'[5] 'the schireffis & thare deputtis avisit wytht the court,'[6] or 'witht the avale of the haile court & assessouris present for the tyme,'[7] clearly show the relation in which the sheriff stood to the court.[8]

[*sc.* du vicomte] consistait à présider les hommes qui jugeaient. Au contraire la décision appartenait à la Cour, c'est-à-dire aux jurés.' *Institutions Monarchiques dans le Royaume Latin de Jérusalem* (Paris, 1894), 286-287.

[1] In a Forfarshire sheriff court of 1495 we find 'Quo die the schireff wyth the avys of the baronis abowin writin,' *i.e.* with the advice of the jury (*Nigrum Arbroath*, No. 354); and compare *L.A.R.* i. 263. In some records we find the 'assessors' called 'assissors,' which might indicate a connection with assizors or members of the assize or jury.

[2] It is quite possible that only suitors of a certain status could be 'assessors.' Such a distinction would fit in with the observations already made on 'debility of court' (*supra*, pp. xxv-xxvi) and on 'common suit' (*supra*, p. lxxv and *note* 6). See also *infra*, App. H. There are frequent references to 'assessors' in the records of sittings where no jury-lists are given. (Cf. *infra*, pp. 17, 74, 105, 137, 240, 257.)

[3] *Infra*, p. 137.

[4] *Infra*, p. 240.

[5] *Infra*, p. 162.

[6] *Infra*, p. 171.

[7] *Infra*, p. 257.

[8] Cf. *Assise Regis Willelmi*, c. 25 (*A.P.S.* i. 379), where suitors are to attend the justice-ayr in order to help the judge in doubtful cases.

Further, there is evidence which seems to indicate that even when a jury was empanelled its members might still consult with the body of the court which would later give assent to the 'verdict.' Bisset cites a case of 1413, in which the 'personis of the foirnemmed assyse saw and harde that donald Johneston a soyttoure of the foirsaid courte with the counsell and assent of all the soyttouris of it gaif for dome etc.,' [1] and in the sheriff court of Aberdeen in 1506 a jury continued an action because it was 'gret and doutwys to thame Ande the principale barones mast of knawledge ande undirstandin ar not present.' [2] Such a procedure would conform with that laid down in the *Assise Regis David I.* where, when the case came to judgment, the presiding officer passed 'forth of the court' and the 'free tenants suitors of the court' made judgment,[3] though in the fifteenth and sixteenth centuries considerable variation in this procedure can be found.[4]

About the middle of the sixteenth century, however, the relationship changes. Possibly the change was due to the Act of 1540 which, *inter alia*, ordered the sheriffs to follow the procedure of the Court of Session.[5] Certainly

[1] *Rolment of Courtis* (Scot. Text Soc.), i. 314.

[2] *L.A.R.* i. 51.

[3] *A.P.S.* i. 317, c. 4. But cf. *Quon. Attach.* c. 12 (*A.P.S.* i. 650), where the sheriff might assist in judgment '*ubi sectatores sunt minus legem scientes.*'

[4] Thus it is not long before the *parties* leave the court whilst the sheriff confers with the barons and freeholders, and then the parties are recalled to hear the result of the deliberations. In 1505 we find 'the said partiis beand removit,' it was fundin and deliuerit be the Shreff and the barons that, etc.' (*L.A.R.* i. 88), and this mode of procedure can be traced much earlier. (Cf. *A.P.S.* i. 471, c. 19; 507; ii. 23, c. 1.) It seems to be the procedure in the present record for civil actions. On the other hand, in criminal actions it is the *assize* who leave the court (*infra, passim*), though this mode of procedure can be found in civil actions as early as 1460 (*Peebles Records*, i. p. 138) and in the latter half of the sixteenth century seems to have become general (cf. *A.P.S.* iii. 461, and MS. Fife Sheriff Court Books, Cupar-Fife). In May 1576 we find an 'assyse loft' of the tolbooth of Cupar to which the jury retired for all cases civil and criminal. (MS. Fife Sheriff Court Book, November 1575-August 1576, ff. 116-117.)

[5] *A.P.S.* ii. 358, c. 7.

the extant records of the latter half of the century show the sheriff as a judge and no longer merely a president of the court. The jury is still used for the service of brieves and for criminal actions, but in all other cases the sheriff acts without advice from the court.[1]

In civil cases and the service of brieves the jury were summoned under the King's letters executed by the mair,[2] and, unless specially named in the brieve, were chosen by the sheriff and his officers acting, as a rule, in consultation with the parties concerned.[3] And for such actions there could probably be no better witnesses to the fact than near kinsmen, friends or neighbours.[4] In an early case relating to the patronage of the *Domus Dei* of Elgin it was laid down that the inquest should consist of '*homines patrie in qua situata est*'[5]; in 1271, when a jury was summoned at Roxburgh to decide upon the right of the Monastery of Soltre to a thrave of corn every harvest from all the lands of Crailing, the suitors of Eckford, Upper Crailing, and Heton each chose four good men from those lands, who, together with the suitors, formed the jury of fifteen[6]; whilst in an action of cognition before the sheriff court of Aberdeen in 1509 the jury were chosen 'with consent and

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[1] In the Sheriff Court Book of Lanark, 1548-1550, we find the sheriff 'avisit with his assessouris' as late as 1549 (folio 17*r*), and in the Sheriff Court Book of Linlithgow, 1541-1561, as late as 1555, 1556 and 1561 (ff. 33*r*, 88*r*, 207*v*). But these seem to be exceptions to the general form, which runs 'the schireffis avisit with the deposicionis decretis etc.'

[2] *Infra*, pp. 62, 63, etc.

[3] *B.P.* 419, c. 4. In 1575 we find a man who has an exemption from jury service making a formal protestation that his service upon a certain inquest should not be prejudicial to him 'in respect that he past upoun the said Inquest onlie for request of partie and na utherwys' (MS. Fife Sheriff Court Book, 1575, f. 104*r*).

[4] In February 1565 we find a brieve of inquest of lands in Dysart served by twelve men from Dysart and one from Cupar. (MS. Fife Sheriff Court Book, 1564-1565, f. 131*v*.)

[5] *Moray*, No. 115.

[6] *Soltre*, No. 44.

assent' of the parties and were limited to men from 'the four quarters about the said landis.' [1]

The early law shows that it was considered an advantage for the jury to be conversant with the facts beforehand. They had to be 'menne maiste worthie and quha beste knawis the veritie,' [2] and it was laid down that 'gif nane of them knawes the trueth, and in the court testifies the samine be their great eath, other persons sall be chosen in their place untill sic men be chosen quha knawes the veritie' [3]; whilst those who professed knowledge of the matter had to swear that they knew the truth 'be sight, or be hearing be themselves, or be narration of their fathers, or be sick sure takens and arguments, to the quhilk they will give or may give als great faith as to their awin proper [doings or sayings].' [4] Further, if the sheriff did not put upon an inquest 'sic personis as best knew the verite of the mater,' the proceedings were liable to be quashed.[5] And it is clear from the present record that in the service of brieves an interested party could even sit on his own inquest.[6] Some limitation to men of substance there must have been,[7] whilst men from outside the jurisdiction could be taken only if there were not sufficient within it possessed of the requisite knowledge.[8]

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[1] *L.A.R.* i. 80. Cf. the wording of the later Act of 1587 (*A.P.S.* iii. 445-446).

[2] *D.V.S.* s.v. *Breve.*

[3] Skene's *Regiam Majestatem*, I. xii. 9. (Cf. *A.P.S.* i. 602, c. 11.)

[4] *Ibid.* I. xii. 13.

[5] *A.D.C.* i. 25*a*, 34*b*.

[6] Thus David Grundiston of Glasslie sits on his own inquest (*infra*, p. 246). See also the case of Auchmuty referred to, p. xciii, *note* 2, below.

[7] Later, in actions of cognition, definite rules were laid down by Parliament as to the status of the jury. (*A.P.S.* iii. 446*a*.) An insistence upon men of substance would be necessary so that they could answer with their goods in case of attaint. (See *infra*, pp. xcix-ci, and *supra*, p. xxx and *note* 10.) In the Latin Kingdom of Jerusalem they had to be *idoneus* (*i.e.* solvent) before all else. (Dodu, *op. cit.* 283-285.) In Iceland they had to be householders, whilst every man who owned 'three hundreds in land or more' had a right to sit. (*Saga of Burnt Njal*, c. 141.)

[8] *A.D.C.* i. 34*b*; *Act. Dom. Aud.* 74*b*. In one instance in the present

In such criminal actions as came before the sheriff the assize could apparently be chosen by the party pursuer in conjunction with the officers of the court,[1] but, in contradistinction to the service of brieves, the pursuer could not himself form one of the members.[2] The *Assise Regis David I.* granted the accused the right to claim trial by his peers,[3] and in 1248 it was laid down that in criminal actions of 'life and limb' the assize had to consist of men who were at least free tenants holding by charter.[4] But there is little evidence that such rules were observed.[5] Generally the assize was composed of men from the *venue* or neighbourhood of the crime, and certain of the lists in the present record seem to indicate men who had taken part in the pursuit and capture of the accused.[6] The system was undoubtedly open to grave abuse, but it was not changed until 1672.[7]

The status of the jury, partly witnesses and partly judges, would seem to preclude the possibility of a jury sitting on any action other than that for which it had been summoned *ad hoc*.[8] Thus in the Fife sheriff court on

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record we find a burgess of Edinburgh (but with a good Fife name) sitting upon a brieve of inquest. (*Infra*, p. 80.)

[1] Cf. *Spalding Club Misc.* ii. 119-120.

[2] *A.P.S.* ii. 9, c. 6. It is to be noted, however, that Alexander Auchmuty of that Ilk sits on the assize for a quasi-criminal action (one of wrongful distraint) in which he is the defender. (*Infra*, pp. 35-36.)

[3] *A.P.S.* i. 318, c. 5.

[4] *A.P.S.* i. 404, c. 15.

[5] The criminal assizes in the present record were certainly not composed of free tenants holding by charter. In 1575 a man pursued in an action of bloodwyte in the Fife sheriff court protested 'that nane war put on the said assyse bot sic men as ar his peiris' (MS. Fife Sheriff Court Book, 1575, f. 99*r*), but there is no evidence that his protest was allowed. On this question of trial by peers the reader is referred to the interesting legal argument in *Justiciary Records* (Scot. Hist. Soc.), i. 201-211.

[6] Cf. the absence of territorial designations in the assizes *infra*, pp. 192, 210, 214, 222.

[7] *A.P.S.* viii. 88*a*.

[8] In the Forfarshire sheriff court, however, we find a rubric in 1495 '*Assisa iurata ad inquisiciones et alios actus*,' which seems to indicate one jury for whatever actions were brought forward on that day. (*Nigrum Arbroath*, No. 354.)

2nd May 1576 a jury of fifteen served a brieve of inquest and a jury of seventeen a brieve of idiotry, but although these thirty-two men were present an action of bloodwyte was continued 'becaus ther wes nocht ane sufficient nowmer of assyse present quhilkis best knew the veritie in the said mater and ar maist meit to pass therupoun.' [1] In the present record, where two cases come forward on the same day the names of the juries are grouped together, and whilst some men must have sat on both cases others are specifically marked as sitting on one or other of the cases only.[2] This indication of the men who sat on a particular case was, as we shall see later, a necessary safeguard should a subsequent appeal prove successful, and in one instance each of two men who did not sit on a certain inquest '*desuper cepit instrumentum.*' [3]

Sir Philip Hamilton-Grierson noted that in the Dumfries sheriff court the laird of Lag, though bound to give suit only to the head courts at Dumfries, still served on inquests at other courts, though 'whether he did so in obedience to a summons or because it was his pleasure, we cannot say.' [4] That service was not equal but was principally performed by a limited number of influential lairds who became almost 'professional jurors' is clear from an analysis of inquests in this and other records.[5]

Exemptions from jury service were frequent and were given from early times.[6] Burgesses of the royal burghs enjoyed exemption beyond a certain mile-limit,[7] 'official'

[1] MS. Fife Sheriff Court Book, Nov. 1575-Aug. 1576, f. 115*r*.

[2] *Infra*, pp. 40, 97, 110, 168. That *of* means *did not sit on* is clear from the list on p. 40, where we read 'Willelmus Seitoun de Ramgally *of bonare*,' and he is not pursued in the subsequent summons of error. (See *infra*, Notes, pp. 291-292.)

[3] *Infra*, p. 154.

[4] *S.H.R.* xiv. 11, note 81.

[5] *Infra*, App. E.

[6] Cf. *Aberdeen*, ii. 267 (1231).

[7] See the records of Glasgow, Aberdeen, Irvine, Ayr, etc. In 1597 all royal burghs received an exemption mile-limit for criminal assizes of four miles (*A.P.S.* iv. 115-116). Mackenzie states that in his time the exemption of

exemptions were granted from time to time and, as a matter of course, exemption was given whilst on the King's service. In addition, personal exemptions were granted under the privy seal or signet sometimes as a reward or favour, sometimes upon the plea of sickness, infirmity, or inability to travel.[1] But abuse crept in and a definite system of licences grew up whereby able-bodied men were made exempt,[2] and later revocations of such licences abound.

The jury were usually summoned upon a warning of fifteen days,[3] but shorter warning could be given, and in 1504 it was laid down that the suitors present in the tolbooth or other persons there could be taken for service without warning at all.[4] Absent jurors were fined unless they were 'deid, seik, or furtht of the realme,' and in these latter cases unimpeachable evidence had to be given by 'curat or be uther famous witnes.'[5] To guard against such a contingency, and also against the removal of jurors through exceptions raised against them, extra jurors were usually summoned,[6] and if absent these too were liable to fine.[7] In the present record the fine appears as £10,[8] but

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burgesses was in desuetude, and that the only exemption enjoyed was the 'official' one of the surgeons of Edinburgh. (*Observations*, 95, Act 1.)

[1] *R.S.S.* i. 1349, 2797.

[2] This accounts for the numerous protestations in later court books that service on a particular jury 'war nocht preiudiciall anent the exemptioun, etc.'

[3] *A.P.S.* ii. 245, c. 35; 253, c. 40.

[4] *Ibid.* In the record of the Fife sheriff court of 6th June 1575 there is an interesting entry to the effect: 'the Juges decernit and adiugeit Thomas arth In duray In ane unlaw for his dissobedience and noncomperance to pass upone the said assyse Because he wes lauchfullie summond and callit thairto and comperit nocht lauchfull tyme of daybiddin he being gangand upone the calsay of the said burcht for the tyme and personalie summond thairto as wes cleirlie verefiit in jugement.' (MS. Fife Sheriff Court Book, 1575, f. 9*r*.)

[5] *L.A.R.* i. 187.

[6] *Infra*, App. I. Similarly in England. (Cf. *Bracton's Note Book*, No. 278, where the sheriff causes a jury to be summoned *pluries*, some of whom are later removed upon various exceptions.)

[7] *L.A.R.* i. 188.

[8] *Infra*, p. 69. See also *L.A.R.* i. 187, and *Charters of Ayr*, No. 30.

in the later Fife records it has dropped to 40s.[1] It is noticeable that these fines are identical in amount with those which were imposed upon absent suitors. If a juror maliciously absented himself another juror could be entered in his place, and for an aggravated case of malicious absence the juror might be put to the horn and declared rebel.[2]

Upon being received the jury took the customary 'great' oath,[3] whilst an Act of James I. laid down that they should also swear they had taken no gifts or bribes of any one.[4] When once sworn and admitted no juror could be removed, but before being admitted either party could raise exceptions to the service of particular individuals.[5] Any exception had to be brought forward immediately [6] and maintained upon some definite grounds.[7] Thus, partiality or nearness of kin might in some cases be a cause of exception,[8] or exception might be taken to the tenants of either party if such tenants were removable at will and therefore likely to be influenced in their decision. On the other hand, men chosen might refuse to sit; sometimes a whole jury so refused,[9] and in criminal actions this was generally interpreted as an expression of sympathy with the accused.[10]

The number of the jury seems to have been settled arbitrarily for actions both civil and criminal, but it is

[1] MS. Fife Sheriff Court Book, 1575, ff. 21*r*, 30*r*.

[2] *A.D.C.* i. 4*b*. This penalty is employed in the Fife sheriff court, 9th May 1576 (MS. Court Book, Nov. 1575-Aug. 1576).

[3] See *D.V.S.* s.v. *Bonapatria*; *S.H.R.* xix. 158. Mackenzie gives an abbreviated form in *Observations*, 30, Act 138. See also their oath-taking in *Moray*, No. 203, and *Melrose*, No. 545.

[4] *A.P.S.* ii. 23, c. 2.

[5] Cf. *Aberdeen*, i. p. 245.

[6] Cf. *A.D.C.* i. 55*b*.

[7] For a list of possible exceptions see *Frag. Coll.* c. 18 (*A.P.S.* i. 744).

[8] Cf. *A.D.C.* ii. ciii.

[9] We find such a case in the Fife sheriff court, 13th July 1575 (MS. Court Book).

[10] Pitcairn, *Criminal Trials*, i. pt. i. 158, 158 *n.*, 189.

nearly always uneven—thirteen, fifteen, or seventeen or more—and the larger numbers generally prevailed in the more important cases.[1] When the uneven number was decided upon it is impossible to say. Juries of even number can be found in early times,[2] and even in the present record,[3] but by 1535 there seems to have been a definite rule that there had to be an odd man.[4] The odd man made a majority verdict possible.[5] Thus, in criminal actions the verdict was 'accordinge to the voyces of the greater number,'[6] or 'as most votes declares,'[7] and in the trial of Thomas Gullen (below) we find the voting of the individual members recorded.[8] In civil actions and the service of brieves the usual form was 'all in ane voce,' which would seem to imply unanimity, but here too we

[1] Later, fifteen appears to have been the minimum for criminal actions. In an action of slaughter before the sheriff court of Aberdeen in 1604 the case was continued because only fourteen jurors were present. (*L.A.R.* ii. 20.) In *Lowther's Account* (1629) the criminal jury is definitely stated to be fifteen. (*Hist. MSS. Comm.*, 13th Rep., App. vii. 75.)

[2] In early times twelve appears as a common number (*A.P.S.* i. 98, 99; *Dunfermline*, No. 196); but the juries of twelve recorded in Bain's *Calendar* (ii. 1420, 1435, 1675, 1681) must be regarded as serving under English rules of procedure.

[3] We find two civil juries of 14 (*infra*, pp. 139, 165-166) and two of 16 (*infra*, pp. 40, 160), but the jury of August 1516 probably consisted of only 15 men, since Seton did not sit on Bonar's brieve and the name of Scrimgeour was added later. An analysis of the remaining juries shows :—

Civil Actions and Services of Brieves:

Twenty-eight juries of 13, twelve of 15, two of 17, one of 21 (*infra*, p. 34), one of 25 (*infra*, pp. 32-33), and one of 11 only (*infra*, p. 198).

Criminal Actions:

Five of 17, four of 13, one of 19, one of 21 (*infra*, p. 210), and one of 11 only, this latter, however, being continued for debility (*infra*, pp. 75-76).

[4] See the decree of the Lords of Council and Session printed in *Antiq. Abdn. and Banff*, iv. 231-232.

[5] The evolution in Scotland was thus diametrically opposite to that in England. (Cf. Maitland, *Constitutional History*, 213.)

[6] *S.H.R.* xix. 271.

[7] *S.H.R.* xix. 158.

[8] *Infra*, pp. 82-83. Pitcairn gives a similar example in 1556. (*Op. cit.* i. pt. ii. 385.)

have evidence that the finding was by majority.[1] Such entries as 'the haill assise, in ane voce, for the maist pairt, except thrie, to vit, T. D., P. H., and W. M.,'[2] and 'the haill inqueist all in ane voce, except A. F.,'[3] show that the common form could not be taken literally for either criminal or civil actions.

Certain anomalies in juries can be found. In an action before the sheriff court of Aberdeen in the first decade of the sixteenth century the jury appears to have been capable of arbitrary increase, to have given its finding in groups, and to have changed in personnel and in numbers before the final verdict was given.[4] Similarly in an action of cognition before the sheriff court of Forfar at the close of the fifteenth century, the jury passed through several changes in three courts both in numbers and in constitution.[5]

The 'chancellor' of the jury was elected by the jury themselves.[6] Upon him, in case of equal division, devolved the duty of giving the casting vote.[7] The decision of the jury was announced by him in actions both civil and criminal,[8] but the announcement of such decision must be clearly distinguished from the doom of the court pronounced by the dempster.

No jury appears to have been dismissed, but in either a civil or a criminal action the jury could be compelled to

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[1] Cf. *Melrose*, ii. App. 29. In 1587 the Act relative to molestations made provision for a majority verdict. (*A.P.S.* iii. 446, c. 23.)

[2] *Spalding Club Misc.* i. p. 102.

[3] *Peebles Records* (Burgh Rec. Soc.), i. p. 333.

[4] *L.A.R.* i. 52-53.

[5] *Nigrum Arbroath*, No. 354.

[6] 'commonlie chosin be the saidis haill personis of assyse,' or 'commonlie chosin amang thame.' (MS. Fife Sheriff Court Book, 1575, ff. 28*v*, 43*r*.) In the document printed by Professor Mackie (*S.H.R.* xix. 157-159) he is given the more modern title of 'foreman' and 'is chosen by pluralitie of voices.'

[7] *B.P.* 288, c. 11. In *Lowther's Account* (1629) he is given two votes (*Hist. MSS. Comm.*, 13th Rep., App. vii. 75) and similarly in the document printed by Professor Mackie (*ut sup.*). This seems to be unnecessary when both writers give the jury as fifteen.

[8] *Infra*, pp. 83, 156, 198.

come to a finding under pain of horning or other penalty.[1] A jury might, however, continue its finding in order to be further and better advised with the facts.[2] When cases were continued the jury were summoned to the next court 'under panis of law,'[3] and in one case in the present record when a jury had been summoned and the brieve was not presented, two members who had appeared protested that they had 'served' and that it should not be prejudicial to them if they did not present themselves at the following court.[4]

In the case of 'retourable brieves' the finding of the jury was reduced to writing and 'sealed with all their seals or of the maist part of them,' the seal of the sheriff added thereto, and the retour made to Chancery.[5]

Appeal against the finding of the jury in non-pleadable (that is, retourable) brieves could be made upon the grounds of 'parcial malice or ignorance.'[6] The jury were summoned before the King and Council, and, if the appeal were successful, became punishable as '*temere jurantes super*

[1] Cf. *infra*, p. 259. In May 1576 we find a Fife jury 'inclusit in the assyse loft of the said burcht' there to remain until they delivered affirmativè or negativè (MS. Fife Sheriff Court Book, Nov. 1575-Aug. 1576, ff. 116-117), and in a brieve of terce before the sheriff of Stirling in 1492 the sheriff was ordered by the Lords of Council to serve the brieve under pain of warding and to enclose the jury 'in a house quhill thai ansuer & gif thair deliuerance in the said mater' under a like penalty (*A.D.C.* i. 253*b*). In England we find an entry in the Year Books in which Stanton J. ordered the jury to be starved until they could agree on their verdict. (*Year Books*, 4 *Edward II.* (Selden Soc.), p. 188.)

[2] Cf. 'All in ane voice contenewit thair deliuerance thairintill unto the saxt day of Junii nixt tocum to the effect that in the mentym thai mycht be forder resoluit and awysit thairwith.' (MS. Fife Sheriff Court Book, Nov. 1575-Aug. 1576, f. 112*r*.)

[3] *Infra*, pp. 125-126, 269, 270.

[4] *Infra*, p. 62, though this protest apparently availed them nothing (p. 63).

[5] Cf. *infra*, pp. 21-22, 102. In 1401 it was laid down that each baron or other tenant of the King should have his proper seal '*ad seruiendum regis*' (*A.P.S.* i. 575*b*), and in 1503 we find an order inserted by the sheriff in the Aberdeen court book that barons and freeholders must bring their seals to the court. (*L.A.R.* i. 6.)

[6] *A.P.S.* ii. 100, c. 9. Cf. *infra*, Notes, pp. 291-292.

assisam' and liable to the escheat of their movables and imprisonment for a year and a day.[1] In 1496 it was laid down that this 'summons of error' had to be raised within three years whether initiated to punish the jury or to annul the retour,[2] though later, extension was made to twenty years.[3] Any member of the inquest could be punished for error without the rest being called,[4] whilst those of the inquest who were dissentients to the verdict were not liable to attaint.[5] This accounts for the notes placed against the names of certain men in the composite lists.[6] Later in the century we find sheriff court juries making a general protestation after their finding to the effect that no objections had been raised against the brieve, and that they had served to the best of their knowledge.[7] It is this procedure of 'summons of error' that is threatened in the general protestation for 'wilfull errour and remeid of law.'[8] Appeal could also be made directly against the decision in criminal actions,[9] but, even if the appeal was

[1] That is, as in *Reg. Maj.* i. 13 (*A.P.S.* i. 602). Cf. *Antiq. Abdn. and Banff*, iv. 100-101. But 'letters of rehabilitation' were frequently granted (cf. *R.S.S.* i. 593, 2735), and it was not unusual for the escheat of movables to be compounded in a fixed sum (cf. *T.A.* v. 107, where Sibbald of Rankeilour and Ballingall of the Riggs, who were both on the inquest summoned for error in the service of Bonar—*infra*, pp. 40, 42-43, 291-292—each paid £3 to the Treasurer '*in completam solutionem compositionis . . . pro eschaeta omnium bonorum suorum mobilium.*')

[2] *A.P.S.* ii. 238, c. 6.

[3] *A.P.S.* iv. 544, c. 13.

[4] Morison's *Dictionary*, 2193.

[5] Cf. *A.D.C.* i. 19*b*; *Act. Dom. Aud.* 42-43, 159*a*; *A.P.S.* ii. 94*a*, 114*b*; *B.P.* 287, c. 5.

[6] *Supra*, p. xciv.

[7] MS. Fife Sheriff Court Books (Cupar-Fife). In Aberdeen in 1557, after a particularly complicated case accompanied by many protestations of party, the sheriff-principal entered a protest that the jury, and not he or his deputes, were to be responsible for the finding. (*L.A.R.* i. 129.)

[8] The difference between such protestation and actual appeal was 'that in the one form process and execution still went on, while in the other all proceedings were stopt until the appeal should be discussed.' (Ilay Campbell, *Acts of Sederunt, 1532-1538* (Edinburgh, 1811), p. xxxii.)

[9] *A.P.S.* ii. 111, c. 4.

well founded, the decision was regarded as *res judicata* and hence binding,[1] though the assise could be punished 'efter the forme of the auld law,' that is, the *Regiam Majestatem*. This may seem a strange burden of responsibility for the jury to bear, but it was a natural outcome of their original status as part witnesses part judges, and a jury who brought in a wrong finding upon oath were deemed to be guilty of perjury.

Although the usual rubric appended to jury-lists is *Nomina Inquisicionis et Assise*, it is interesting to note that in the present record, as also in the later Fife records, *inquisitio* seems to be reserved for brieves and *assisa* for criminal actions[2]; that is, in the one case a 'jury of recognition,' in the other a sitting in trial to decide the truth of a definite charge.[3]

CONCLUSION

How far did the sheriffs administer justice, and how efficient were the local courts? It has frequently been noted[4] that in the fourteenth and fifteenth centuries an ever-increasing stream of cases which should have been decided before the local courts poured in to the central authority. In part this may have been due to a natural desire to seek decisions from the highest courts, but it

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[1] Mackenzie states that in criminal actions the sentence still stands, 'for men are naturally enclined to go all lengths in bringing off the Pannel' (*Matters Criminal*, I. xi. 5). The legal reflections of an accused can have been by no means pleasing!

[2] Cf. the *Nomina Assise* for criminal actions (*infra*, pp. 15, 82-83, 130, 214, 222), though on two occasions the new clerk uses this rubric for inquests (*infra*, pp. 187, 193). In this connection it should be noted that *assisa* is used for 'bloodwytes,' which in other respects also follow criminal procedure. (*Infra*, pp. 47, 75, 149.)

[3] Cf. Maitland, *Constitutional History of England*, 126. But see also *Year Books*, 12 & 13 *Edward III.* (Rolls Series), Intro. xlix. ff.

[4] See in particular R. K. Hannay, 'On the Antecedents of the College of Justice' in *Book of Old Edinburgh Club*, xi.

cannot be denied that behind this movement (and even behind the desire for the higher courts) lay the ignorance or partiality of the sheriffs and the inefficiency of the local judiciary. Thus, although Parliament constantly repeated its enactments that cases should first of all go to the 'judges ordinary,' [1] or to 'the courtis to quham thai pertene of law,' with equal constancy it combined with those enactments an injunction that the judges should be men 'that can and may halde the law to the Kingis commonis.' [2]

Two enactments of the close of the fifteenth century clearly demonstrate the condition of affairs then prevailing. In October 1487 recourse to the Council was limited to certain cases only,[3] but in January 1488 (three months later) the enactment was annulled, and it was made lawful for all parties to raise and pursue summons before the King and Council without first going to the judges ordinary, 'becaus the Kingis hienes understandis that It wer deferring of Justice to mony partiis that couth nocht gett law ministrit to thame before thar ordinaris.' [4]

Such delay and denial of justice, here so frankly admitted by the central authority, naturally found comment in contemporary writings. The brief chronicle in the *Registrum Moraviensis* records under the year 1398, '*In diebus illis non erat lex in Scocia sed quilibet potencior minorem oppressit et totum regnum fuit unum latrocinium homicidia depredaciones et incendia et cetera maleficia remanserunt inpunita et justicia utlegata extra regni terminos exulavit*' [5]; the anonymous poem quoted at the end of the *Liber Pluscardensis*, and which probably refers to conditions in the

[1] In 1487 the judges ordinary are said to be the justiciars, the chamberlain, sheriffs, barons, provosts and bailies of burghs, and other officers, judges and ministers of law by whom the actions can be heard and decided. (*A.P.S.* ii. 177, c. 10. See also Craig, *Jus Feudale*, II. xvii. 26.)

[2] See *A.P.S.* ii. 3, c. 6; 8, c. 24; 11, c. 19; 94, c. 2; 111, c. 3; 177 c. 10; 183, c. 17.

[3] *A.P.S.* ii. 177, c. 10. [4] *A.P.S.* ii. 183, c. 17. [5] *Op. cit.* p. 382.

reign of James III., draws a picture of judges ignorant of the law, partial and venal, of delay of justice and of neglect in execution; whilst in Henryson's *Tale of the Sheep and Dog* [1] the sheriff is likened to a wolf

> 'Quhilk byis ane forfalt at the Kingis hand
> And hes with him ane cursit assyis about
> And dytis all the pure men upon land.'

The well-known 'Education Act' of 1496 may be interpreted as an attempt by King and Parliament to combat this maladministration of justice. Most of the local jurisdictions were heritable in nature; therefore all barons and freeholders must put their eldest sons to the schools of art and law, so that eventually the judges may have knowledge of the law, justice may reign universally throughout the realm, and the poor people no longer need to seek the Lords Auditors 'for ilk small Iniure.' [2] It is difficult to judge how far the policy met with success. In the early years of the sixteenth century there are still unmistakable signs of both weakness and venality in the localities,[3] but complaints of lack of justice grow smaller in number and degree. The real remedy was not to be found until 1747, when the whole system of local justice was reformed.

For the period which it covers, the present record affords little evidence that the sheriff court of Fife did not administer even justice. Protestations for 'errour and remeid of law' abound, but such protestations seem to have been formal only, a natural step taken by a litigant disappointed in the decision and anxious to have record of his protest should he later wish to revive the issue.

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[1] Henryson *floruit c.* 1470-1500.

[2] *A.P.S.* ii. 238, c. 3. Cf. *supra*, p. lv. In 1549 we have record that the sheriff of Bute, James Stewart, could not write, for the notary public leads 'the sheriff's hand at the pen, he being unable to write.' (*Hist. MSS. Comm.*, 11th Rep., App. VI. p. 24, No. 37.) On folio 56*v* (below) the signature of Lindsay is that of a man unaccustomed to the pen.

[3] Cf. *E.R.* xv. 666.

Only one 'summons of error,' that relating to the service of William Bonar, appears to have arisen,[1] but the minute by Lindsay recording the appointment of a new clerk and defining the sheriffs-depute [2] bears evidence of some misdemeanour of recent date, while the two letters of 27th March 1520 and 11th December 1521 relating to the slaughter of Andrew Balcomie show long delay, in that particular case, in the execution of justice.[3]

The very procedure of the court, however, led to considerable delays in decision. Thus the case of Nichol *v.* Lawson for the spuilzie of a copper kettle ran from March 1518/19 to November 1521, and it is no wonder the pursuer protested his action had 'bene depending & continuit fra court to court . . . to his hevye dampnage and skaytht,' [4] or that in the final appearance the clerk described the action as one that in the 'actis of court of befor largely is contenit.' [5] Few cases reached decree without having previously suffered several continuations, and continuations predominate throughout the whole record. In February, March and April 1515 we find, one after the other, three general continuations of all cases before those courts,[6] and similarly the court of 1st December 1517, sitting with a full bench, continued every action to the following Yule head court.[7] Such general continua-

[1] *Infra*, pp. 42-43 and Notes, pp. 291-292. [2] *Infra*, p. 176.
[3] *Infra*, pp. 279-282. [4] *Infra*, p. 228. [5] *Infra*, p. 232.

[6] *Infra*, pp. 11-13. The early general continuations may, however, be due to the difficulties under which the country was still labouring after the disaster of Flodden. It is noteworthy, on the other hand, that there seem to be but three references in the whole record to this campaign. The retour of Lundy is stated in the margin to be '*Lundin in campo bellico*' (*infra*, p. 100); there is one reference to 'the act of the feld,' *i.e.* the Act passed at Twiselhauch (*infra*, p. 111); and 'eftir the feild' is used upon one occasion to fix a point in time (*infra*, p. 51). The editor of the concurrent volume of the *Exchequer Rolls* has pointed out that the sasines given after Flodden are all silent as to the campaign, whilst later sasines are content to refer to it as '*bellum*' or '*campus bellicus*.'

[7] *Infra*, pp. 88-89. Similarly cf. pp. 36-38, 55-56, 102.

tions, apart from the ordinary continuations of separate actions, must have involved, in addition to delay of justice, considerable hardship upon the litigants, whilst no principle in their use can be found.

Finally, it must not be forgotten that a meeting of the sheriff court was more than a mere judicial assembly. 'To go to court' had a fuller significance in the sixteenth century than it has now, for the head courts, and in a lesser degree the intermediate, were as much representative gatherings of the men of the sheriffdom as they were courts of justice. There local news was retailed, the crops and the weather discussed, politics and affairs of the realm considered. All classes met in the court. Well-known public men like Sir Peter Crichton of Naughton or Sir William Scott of Balwearie, and important local officials such as the provosts of Cupar (David Spens of Wormistone) and St. Andrews (David Lermont), rubbed shoulders with the portioners of Dysart and the shepherds of Craighall. For this reason we find the head courts regarded as public assemblies of the sheriffdom at which proclamations could be made and the decisions of Parliament announced. Later in the century the parliamentary elections for commissioners of the shires were usually held there as being the most 'convenient time.'

The court was the very centre of the sheriffdom, giving to it a territorial homogeneity which would have been otherwise denied. It was also the link between the localities and the Crown, further serving a useful part in such administrative functions as the extending of lands for taxation or the registration of lands by the retour to the brieve of inquest. Like the county court of England, it was essentially a democratic institution wherein the people could play their part in government and in justice, and receive their education in politics and the law.

SHERIFF COURT BOOK OF FIFE

1515–1522

Curia Capitalis Vicecomitatus [1]de fiffe[1] Tenta In [pretorio burgi de] [2] Cupro Per Nobilem dominum Patricium dominum lyndesay Joh[annem magistrum] [2] lyndesay de petcrowy militem vicecomites de fiffe Dau[id Sibbald de lethame] [2] et Andream lundin de stretherlie eorum deputat-[os ix die mensis Januarii] [3] anno domini m° v^c xiiij Sectis vocatis curia [affirmata] [2] etc 1r

Nomina absencium

s p Bordland Sauling
p Rossith
s p Drone
s p Petconnoquhye
s p Cleische
s p Kynnescote
s p Lochorschire eistir
s p Coudrane & the maw
s p glasmonth
s Wemys eistir
s p Wemys vestir
s p Doverye
s p Wauchtoune disert
s p burneturk ramsay
s p Taissis
s p Craghall
s p giblatstoune personaris except f martyne
s Cassingray

S p Clenedowky
flisk & flisk myllane aprisit landis
s p Forret
p Cammo
s p Dalgathie
s p Pinkertoune & pettolly
s Lethalland
s p petdonys mobra
s p petdonys porteuis
s p petdonys bruce
s p grange
s p balgonware
s p Balmonth
s p Erle of craufurd for his parte of the [ ] [2]
s p Sauchope
s p Wedderisbye
s p Casche

[1] Added above the line.
[2] Folio torn down margin.
[3] Date derived from succeeding entry and from the rule for Head Courts (see *Introduction*, p. xv).

s p girsmarstoune & kirklandis
s p Ballinbreigh
p barony of Innerkething
s p Seyfeld

Touch

Quo die dauid berclay de touch eistir [asseruit] [1] quod terre sue fuerunt tente per seruicium albe f[irme] [1] et quod non tenetur inuenire sectam curie pro [eisdem et] [1] protestatus est quicquid actum fuerit in contrarium si[bi et] [1] suis successoribus nullatenus preiudicaret et protestacio Juris etc

Secta

Quo die Robertus bruce de blaksauling intrauit Johannem haukerstoune sectatorem curie pro terris suis de b[l]aksauling qui Juramentum corporale prestitit de fideli administracione in hujusmodi officio usquedum exoneretur

Quo die actio super Jacobo ramsay in petgorno prosecuta penes cruoris extractionem vilke per vicecomites continuatur ex partium consensu ad penultimum instantis

Kynnere

Quo die dauid Kynnere de eodem Judicialiter comp[arens] [1] asseruit quod alias summonitus extiterat per henricum Sibbald marum ad instanciam Johannis betoune de flisk [*creich* ?] & andree mathiesone de Carnebo una cum nepote suo dauid Kynnere pro quadam warantizacione certarum terrarum de nethir cathillok prout in precepto desuper emanat[o] Latius continetur et quia paratus fuit ad respondendum parti et minime vocatus protestabatur pro expensis priusquam respond[eat]

1*v*

[2] [i]x° Januarii anno xiiij

Nomina assise et Inquisicionis

[2] [*Georgeus*] dischingtoune de Ardros
[*Petrus Petblatho*] de Eodem
[*Johannes claphane*] de claslogy
[*Alexander borthweik*] de gordownishall
Alexander Sibbald de rankelour
Johannes rankelour de Eodem
Wilelmus spittaile de luchald
dauid Tullo de hilcarny

[1] Folio torn down margin.

[2] Folio torn down margin.

[*Walterus herriot*]de burnturk
[Geo]rgeus strang de balcaskye
[Al]exander auchmowty de Eodem
[Fl]orimund martine de giblaitstoune
Alexander lochmalony de eodem

Qui Jurati dicunt quod quondam willelmus [1]farny[1] de eodem pater Andree farny latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem et fidem supremi domini nostri regis de uniuersis et singulis terris de westir farny cum pertinenciis et foresta de Culface cum [per]tinenciis Necnon et de officiis constabularie burgi de Cupro et forestarie nemoris [de] falk[l]and et de totis et integris terris de Nuthill cum uniuersis et singulis suis proficuis et pertinenciis [2] Jacentibus infra vicecomitatum de fiffe Et quod predictus Andreas presencium lator est legitimus et propinquior heres eiusdem quondam Wilelmi patris sui de predictis terris et officiis cum suis pertinenciis Et quod est legitime etatis Et quod prescripte terre cum officiis et pertinenciis valent nunc per annum octoginta libris monete currentis scocie Et quod tempore pacis valuerunt decim libris Et quod tenentur in capite de supremo domino nostro rege per seruicium albefirme Soluendo annuatim duodecim denarios argenteos ad festum sancti Johannis baptiste Et quod nu[n]c existunt in manibus Supremi domini nostri regis antedicti Juste per seipsum racione decessus predicti quondam Willelmi patris sui ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium unius anni et quatuor mensium aut eocirca In quorum fidem et testimonium etc

The quhilk day in the actioune & cause persewit be Isobell meldrum the spous of wmquhile Johnne Kynner of that Ilke aganis Andrew Mathiesoune of carnbo & Waranto

[1] Added above the line.

[2] There is an omission mark here, but the margin has been torn away and thus the note can not be supplied.

Johnne betoune of creich tueching the allegiit wranguis taking fra hir of v oxin as is contenit in ane summondis tharupone the said Isobel comperand personalie and the saidis Andrew & Johne be thare procuratour schir laurence Alexandersone the said schir laurence grantit the taking of the said oxin be ane Just title allegiit & schewin in Jugement & allegiit dauid Kynnere the sone and air of the said wmquhile Johne in warant to the productioune of the quhilke the Juge assignit to hyme the penult day of the said moneth

[pro]testacio The quhilk day maister dauid Sibbald in the name of elizabeth Sibbald the spous of wmquhill williame farny of that Ilke protestit solemmtlie that the dew seruyng of Andrew farnyis breuis of inquest and his clame of the landis of westir farny the forest of Culface the landis of Nuthil with officis of the constabularye of Couper & forestary of the park of falkland with thare proffittis and pertinence clamit be the said Andro suld turne hir to na preiudice anent hir coniunctinfeftmentis and richtis quhilkis sche had & has of the said landis

2*r* continuatur The quhilk day the breif of Inquest of our Souerane lordis chapel Impetrat be Dauid grundistone of glaslie is with consent of party that is to say the said Dauid one ane parte & the chantour of breichine for the airis of wmquhil Dauid balfour of petcullo one that wthir parte continuit to [the] penult day of the said moneth in forme and effect as it now is but preiudice of party

continuatur The quhilk day the actioune & cause persewit be henry petcarne of petlour aganis Andrew murray of kippo knyt allegiit to be compromittit Is with consent of the saide henry one ane parte and williame scot of baluerye knyt for the said schir Andrew murray & caucioune for hyme that he sall hald ferme and stable quhat he dois for hyme in the said actioune one that wthir parte continuit to the samyne effect as of befoir to the said penult day of Januar

protestacio The quhilk day Andrew Setone of perbroth comperit in

Jugement producit and schew ane perambulacioune selit with the selis of certane baronis tucching the diuisioune of the landis and merchis of ladifferone pertenyng to hyme and the landis callit the forest of Kilface pertenyng to the lard of farny and protestit that the dew seruyng of the breuis of Inquest thare presentit be Andrew farny the sone and air of wmquhile williame farny of that Ilke suld gener na preiudice to hyme in safer as is contenit in the said perambulacioune nor to his airis eftirwartis

The quhilk day Alexander teruate of that Ilke producit teruate our souerane lordis lettres in Jugement requiring and chargeing the schiref foirsaid to tak cognicione & knawlege be ane Inquest of the baronis frehaldaris and wtheris of the quantite and awale of the said Alexanderis waird landis haldin alsweil of our Souerane lord as of the archibischop of Sanctandrois and quhat thai ar now worth be ȝeir eftir the productione of the quhilk lettres the schiref foirsaid gert the personis foirsaid chosin tharto be suorne for the cognicioune & knawlege of the quantite and awaile of the said Alexanderis waird landis haldin alsweile of the king as of the archibischop foirsaid quhilkis fand & deliuerit that the said Alexanderis waird landis haldin of the king ar now worth be ȝeir xxiiij merkis and his waird landis haldin of the archibischop of Sanctandrois worth be ȝeir xxvj merkis quhilk extendis in the haile to fifty merkis and thareftir be resonable estimacione & modifiyng the schiref foirsaid maid the said Alexander to haif xij ℔b of the malis and proffittis of his said warde landis ȝeirlie during the tyme of the warde tharof and quhill his lachful aige and decernit preceptis to be direct to command & charge Dauid leirmonth quhilk has the gift of all the said warde landis that he redelye ansuer and obey to the said Alexander in the thankful paying of hyme of the foirsaid sowme of xij ℔b to his sustentacione ȝeirlie quhill his lachfull aige and geif neid be to compel & distrenȝe tharfor ȝeirlie as effeiris

The quhilk day the actioune of blodewit betuix robert aysoune & Johne howisoune is continuit to the penult

day of Januar foiresaid in forme and effect as it now is but preiudice of party and thai warnit apud acta

2v

ix° die mensis Januarii

protestacio

The quhilk day Alexander lochmalony of that Ilke protestit that he suld nocht be compellit to ansuer at the instance of Thomas berclay of the rynd eftirwart because he wes summond at his instance to the said day & nocht callit nor persewit one to the tyme he had his expenssis payit as efferit

protestacio

The quhilk day James lochmalony protestit siclike for his expenssis aganis the said Thomas

terce

The quhilk day Jonet borthuik the spous of wmquhile Andrew anstrothir of that Ilke was be the said inquest at the command of our souerane lordis breuis seruit of ane resonable terce and j thirdparte of all and sindry the landis of anstrothir and of the myl of the samyne with thare pertinence liand within the schirefdome of fiffe of the quhilkis the said wmquhile Andrew deit westit and sesit as of fee and of all wthir landis and annuel rentis of the quhilkis he deit westit and sesit within the said schirefdome and is befallin the sone Cauile of the samyne in Jugement and preceptis decernit to be direct tharupoune to beken and inter hir hir procuratouris or actornais ane or ma tharto as effeiris baith landis milyne toft croft & tenementis with thare pertinentis

The quhilk day in the actioune & cause persewit be Marioune petcarne the spous of wmquhile Johnne multrare of disert aganis Johne multrare of Seyfeild tueching the wranguis withhalding fra hir of the malis proffittis dewiteis and wthir gudis of the landis of the Newtoune of markinsche liand within the schirefdome of fiffe pertenyng to hir like as is contenit in the summondis tharupone the said Johnne multrare of markinsche ofttymes callit & comperit nocht he being lachfullie summond tharto of before with intimacioune as efferit

the said Marioune comperand personalie producit certane witnes to preif hir intent quhilkis wer lachfullie summond tharto of befoir and be the said schiref deputis thane resauit suorne & examinit in Jugement wpoune the poyntis and articlis contenit in the said summondis to the nowmer of v witnes be the quhilkis it wes clerlie preuit that the said Johne multrare of markinsche had takin wp and withheld fra the said marioune the malis proffittis and gudis of the saidis landis pertenyng to hir as eftir followis that is to say xl stane of chese of the proffit of Jc ȝowis the price of the stane xl đ iiij stane of buttir the price of the stane vj s̃ with the girse male of [1]iiij[1] scor of schep extending to xxxij s̃ the girse maile of xxxij nolt extending to iij l̃b iiij s̃ the girse male of vj horse extending to xxiiij s̃ [2] with xij turs of hay the price xxiiij s̃ and tua oxin the price iij l̃ iiij s̃ quhilk extendis in the haile to the sowme of xvij l̃b xiij s̃ iiij đ [3] the quhilk proffit malis & dewiteis wes of this instant ȝeir Eftir the quhilk probacioune the schiref deputis foirsaid being awisit with thar assessouris fand decretit & deliuerit that the said Johne multrare of markinsche had done wrang in the wptaking & withhalding of the saidis malis proffittis & dewiteis foirsaid fra the said marione and ordanit the foirsaid sowme for the awaile tharof to be contentit & payit be hyme to hir within the terme of law & preceptis to be direct to compel & distrenȝe tharfor as efferis

Curia Vicecomitatus de fiffe Tenta in pretorio burgi de Cupro per Nobilem dominum Patricium dominum lyndesay de biris et Johannem magistrum lyndesay de petcrowy militem vicecomites de fiffe Dauid Sibbald de lethame Andream lundin de stretharlie et Dauid gregor deputatos eiusdem et eorum quemlibet coniunctim et diuisim die penultimo mensis Januarii anno domini mo quino xiiijo Sectis vocatis curia affirmata etc 3r

[1] Added above the line. [2] Originally *xij* and altered to *xxiiij*.

[3] This sum should now be £18, 5s. 4d., but the scribe forgot to make the necessary alteration in the total after altering the fifth item.

NOMINA ASSISE ET INQUISICIONIS

Dauid ramsay de culluthie
Dauid berclay de cullerny
Johne lumisden de ardre
Alexander sibbald de rankelour
Dauid balfour de caraldstoune
Thomas berclay de rynd
Dauid berclay de Touch
Alexander lochmalony de eodem
Johne rankelour de eodem
Alexander schethum de caskelpy
Dauid wemis in disert
Johne berclay Ibidem
Georgeus[1] robertsone Ibidem

continuatur The quhilk day the actioune & cause mouete be schir williame scot aganis James ramsay in petgorno like as is contenit in the summondis tharupoune is with consent of party continuit to the last [2]day[2] of februar as it now Is in hoipe of concord but preiudice of party & the partiis wairnit tharof apud acta

continuatur The quhilk day the actioune of bloidwit persewit apone henry dempstertoune is continuit to the said day and he wairnit apud acta

Kynloch Qui Jurati dicunt quod quondam Jacobus kynloch pater Johannis kynloch latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem et fidem supremi domini nostri regis de una medietate omnium et singularum terrarum de cleische westir cum pertinenciis Jacentium infra vicecomitatum de fiffe Et quod predictus Johannes presencium lator est legitimus et propinquior heres eiusdem quondam Jacobi patris sui de predicte medietate terrarum de westir cleische cum pertinenciis Et quod est legitime etatis Et [quod] medietas predictarum terrarum de cleische westir cum pertinenciis valet [3] nunc per annum octo libris monete currentis scocie Et quod tempore pacis valuit xl s̄ Et quod tenetur in capite de Jacobo Sandelandis domino de crowye per seruicium albe firme soluendo đ monete currentis scocie in festo penthecostes nomine

[1] The manuscript has *Georgeum*.
[2] Added above the line.
[3] The manuscript has *valent*.

albefirme si petatur Et quod nunc existit in manibus predicti Jacobi domini superioris eiusdem Juste per seipsum per decessum predicti quondam Jacobi kynloch ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium unius anni et trium mensium aut eocirca In quorum etc

The quhilk day the actioune and cause persewit be Isobell meldrome the spous of wmquhile Johne kynnere of that Ilke aganis Johnne betoune of creich and andrew Mathiesoune of carnbo tueching the allegiit wranguis away taking of fiwe oxin like as is contenit in ane summondis tharupoune is with consent of party continuit to the said day for the productioune of the bischope of glasgw as warand allegiit be the said Johne & Andrew at the command of our souerane lordis lettres as terme peremptour but ony langer dilay or excusacione and the partiis be thar procuratouris that is to say the chantour of breichin for the said Isobel and schir laurence Alexander[sone] for the saidis Johnne and Andrew warnit tharof apud acta continuatur

penultimo Januarii 3v

The quhilk day schir Andrew murray of kippo kny^{t} producit ane lettir of exempcioune of our soucrane lordis king James the feird quhame gode assolȝe the quhilk was be interlocutour of court fundin of nane awaile force nor effect because it wes Impetrat in the tyme of Andrew lundin of balgony kny^{t} schiref of fiffe for Inamite pley & discord betuix thame of heretaige and that the said lettir aucht nocht to be admittit for stopping or deffering of Justice in the actioune persewit be henry petcarne of petlour because thar was na cause of suspicioune proponit agane the Juge Murray

The quhilk day the actioune & cause persewit aganis Michael fortoune & dauid Thomsone in carnebe of bloidwite wes continuit to the said last day of februar and thai warnit tharof apud acta continuatur

continuatur

The quhilk day the actione of bloidwite persewit aganis robert aysoune and Johnne howisoune is continuit to the said day and thai warnit tharof apud acta

continuatur [*summonicio?*]

The quhilk day Thomas swan was summond in Jugement to compere the said last day of februar to ansuere at the instance of george foirman eftir the tenour of ane precepte

continuatur

The quhilk day the breif of Inquest Impetrat be dauid grundistoune of glaislye Is with consent of party continuit to the said day as of befoir sub spe concordie

continuatur

The quhilk day the actioune and cause persewit be Johnne claphene of claslogy aganis Johnne skrimgeour of the myris tueching the spoilȝeing allegiit of certane caittaile like as is contenit in the summondis tharupone is continuit to the last day of februar for the publicacioune of certane witnes producit be the said Johne claphene with consent of party and thai wairnit tharof apud acta

procuratorium balgony

Quo die Jacobus lundin de balgony constituit et creauit Judicialiter magistrum dauid Seitoune Rectorem de fethircarne magistrum Alexandrum Seitoune [et] Thomam berclay cum potestate substituendi suos procuratores in omnibus suis actionibus et precipue ad obiciendum contra breue seu breuia Impetrata seu Impetranda per Johannem mailuile de Touch seu quemcunque alterum super terris seu annuis Redditibus concernentes sibi aut suis terris qualitercumque cum potestate perdendi & lucrandi in meliori forma promittens Ratum & gratum ut moris est

4r

Curia Vicecomitatus de fiffe Tenta in pretorio burgi de cupro per Nobilem virum Johannem magistrum lyndesay de petcrowy militem vicecomitem de fiffe die ultimo mensis februarii anno domini m° quingentesimo quartodecimo Sectis vocatis curia affirmata etc

The quhilk day the actioune & cause persewit be maister robert boiswell persoune of auchterderay aganis Johne mailuile of the raith kny^t^ & certane wtheris his complicis

is with consent of party continuit to the xx day of merche nixt to cum as it now is wnder hoip of concord & the partiis wairnit tharof apud acta

The quhilk day the actioune & cause persewit be Johnne berclay in disert aganis dauid wemis of that Ilke like as is contenit in ane precepte of summondis tharupone is with consent of party continuit to the said xx day of merche as it now is but preiudice of party and thai wairnit tharof apud [acta] and the witnes contenit in the saide summondis summond of new in Jugement to the said day

The quhilk day all actionis & summondis maid to the said last day of februar wes be the schiref foirsaid of [1] speciale command of the lordis of counsale for certane greit caussis mowing thame tharto continuit to the said xx day of merche

Curia Vicecomitatus de fiffe Tenta in pretorio burgi de Cupro per dauid gregor vicecomitem deputatum de fiffe die xx° mensis marcii anno domini Millesimo quingentesimo xiiij° Sectis vocatis Curia affirmata etc

The quhilk day all actionis & summondis of party to this court wer be the deput foirsaid continuit to the heid court nixt eftir pask for debilite of court but preiudice of party

The quhilk day robert balfour protestit solemmtlie for hyme self & his collegis summond at the instance of gelis berclay that because thai wer summond & nocht callit that tharfor thai suld haif thar expenssis or thai ansuerit and for remeid of law tyme & place neidfull [2]to ansair[2]

Curia Capitalis Vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem dominum Patricium dominum lyndesay de biris et Johannem Magistrum lyndesay de petcrowy militem vicecomites de fiffe Johannem scheues 4v

[1] *his* deleted here.

[2] Added later and in a different hand.

de kenbak dauid Sibbald de lethame Andream lundin de stretherlye & Dauid gregor suos deputatos et eorum quemlibet coniunctim et diuisim die xiiij^{o} mensis aprilis anno domini millesimo quingentesimo decimoquinto Sectis vocatis curia affirmata etc

Secta

Quo die dauid balfour de caraldstoune intrauit Jacobum spens sectatorem curie pro terris suis de caraldstoune qui Juramentum corporale prestitit de fideli administracione in hujusmodi officio usquedum exoneretur

Jamisoune & Skrymgeour

The quhilk day Johne skrimgeour of the myris maser personalye In Jugement of fre will stud content grantit & promittit to refer and referrit the haile clame and actioune being different betuix hyme & Dauid Jamisoune burges of the said burgh as donatar cessionar and assigna to the airis of wmquhile Johnne farny burges of the burgh foirsaid to patrik lord lyndesay of the biris and collegis [1] quhame he plesit to tak to hyme submittand hyme to his Jurisdictioune tharintill alanerlie with his collegis foirsaid presentibus magistro craufurdye ac dominis de kelle kelle in angusia paulmoir perbroth kynfawnys torry lethame wedderisbye etc

Nomina absencium

s p Sawling
s p Blaksawling
s p Rossith
s p Drone
s p Petconnoquhy
s p Cleische
s p The barony of arngosk
s p Kynescot
s p lochorschir estir
s p lochorschir westir
s p Glasmonth
s p Wemis westir
s p Wemis estir
s p Drumclocho
s lucheris wemis
s p lucheris ramsay
s lucheris bruce
p Cammo
s p Petlour westir
s p Pynkertone pettolly
s lethalland
s p Petdonys except strang
s p Tirye seifeild
s p grange
s p Condolane
s p balgonnare

[1] *in all poyntis* deleted here.

s p Wauchtone for disert
s p dowerye
s p Craghall
s p ardross
p kyncrag
p Reraes
p Ardre
s p Glaslie heriot
s p girsmaristone
p Pettinweme
s p kynmukkis
s p ballinbreich
s p Balmonth
s p Westir touch
s p Estir touch
s p maristone
s lumbenny berclay
p ladynurquhart
s p sawchop
s p lillok
s p maw
s p bor[d]land sawling
s p Cullerny

The quhilk day the schireffis foirsaid at the command of our Souerane lordis lettres be deliuerance of the lordis of counsale continuit the said heid court and all actionis depending tharupone to the viij day of Maii nixt to cum in the samyne forme force and effect as it now is but preiudice of party and that day to haif the samyne strenth of the said heid court as this day in all thingis but excepcioune or Impediment quhatsumeuir

The quhilk day Jonet pete in the kingiscarne comperit personalie in courte as sche that was lauchfully summond tharto at the Instance of laurence Hagye in Randelstoune [1]for xiiij ƀ of aittis[1] and opynlye allegeit & said that Henry sibbald mare quhilk summond hir to the saide court had arrestit hir cornis & gudis being wpone the ground of kingiscarne foirsaid and tharfor offerrit hir Reddy to wnderly the law wpone ony clame or chalange that the saide laurence or ony otheris had aganis hir & askyt hir said cornes & gudis to be relaxt of the saide arest wnder souerte as efferyt And thane the schireffis & deputis foirsayd tuke Robert Webstar in petmerch souerte for the saide Jonete to do to the said laurence for hir saide gudis It that the law Requiris & to ansuere befor thame or ony of thame tharfor eftir the forme of law And put the said actione wnder continuacione to the said viij [2] day of Maii & the partiis warnit tharof apud acta 5r Pete

[1] Added in the margin.

[2] Originally *xviij* and *x* deleted.

The quhilk day the said laurence hagy personaly in Jugement alegeit that he hadd the said landis of kingiscarne in tak & assedacione of dauid spens of Wilmerstoune and grantit opynly that the said dauid Spens interit hyme tharto eftir the forme of his assedacioune/ & that he nore nane in his name Removit hyme neuir tharfra the quhilk the said dauid [*laurence*?] askyt to be actit

Curia vicecomitatus de fiff Tenta In pretorio burgi de cupro per nobilem virum Johannem magistrum lindesay de petcrovy militem vicecomitem de fiff die xij^{o} mensis Junii anno domini m^{o} v^{c} xv^{o} sectis vocatis Curia affirmata etc

Quo die vicecomes predictus vigore literarum sibi desuper directarum creauit constituit et ordinauit Georgeum strang de balcasky dauid Sibbald de lethame dauid gregor & dauid flescheour burgenses dicti burgi et eorum quemlibet vicecomites deputatos suos de fiff qui Juramentum corporale prestiterunt ex ipsius mandato super fideli administracione in eorum officiis usquedum exonerentur

Eodem die In curia defensata per predictos deputatos in dicto pretorio prefati deputati constituerunt creauerunt et deputauerunt Eduard Colyne marum australis quarterii de Edyne qui Juramentum corporale prestitit de fideli administracione in hujusmodi officio usquedum exoneretur

Eodem die deputati prescripti creauerunt et deputauerunt similiter henricum eduard in Judicatorem curie vicecomitatus de fiff et dauid gregore in clericum qui Juramentum corporale prestiterunt de fideli administracione in eorum officiis usquedum exonerentur

5*v* Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem dominum Patricium dominum lindesay de biris et Johannem magistrum lindesay de petcrovy militem vicecomites de fiffe et dauid sibald eorum deputatum die vij^{o} mensis Julii Anno domini m^{o} quingentesimo xv^{to} sectis vocatis etc

NOMINA ASSISE

Thomas ballingall of the Riggis
Alexander schethome of caskelpye
Williame baxster of the quyltis
Johnne gourlay in kingis catyll
Johnne Thomsone thare
James Sym thare
Johnne beddisone thare
Johnne atkisone thare
Johnne blak in hole catill
Johnne dovery thare
Dauid peresone thare
Archibald wat thare
Johnne Robertsone elder in qwiltis
Johnne Thomsone in the qwilt myln
laurence smyth in bynzeane
Johnne Robertsone
Henry smyth

Walter Hird suspensus

The quhilk day Walter hird thane duelland in pyotstoune was Inditit & folowit be toung be Johnne andersone Williame eldar & Johnne Symsone duelland in kaskeirdoch for the thiftwis steling fra thame of ten scheipe quhilkis war thar present & tane with the said walter & als accusyt of commoune thift The quhilk thift the said walter denyit & tuke hyme to gode & the knawlaige of the said assise tharupone The quhilk assise past furth of courte suorne Riplie & weil avisyt deliuerly enterit & be the mouth of Thomas ballingall deliuerit that the said Walter had stollin the said scheipe & was art & parte tharof/ & thane the Jugis gert geif dome of courte tharupone that the said walter suld be had to the gallous for the said thift & hangyt quhil he war ded quhilk wes done in continent but dilay

The quhilk day & courte Johnne skrymgeour of the Miris Masser protestyt for his gudis being in the handis of the said walter hird that his accusacione suld turne hyme to na preiudice & for Remede of law before the accusacioune

CURIA vicecomitatus de fiffe Tenta apud burgum de Cupro per Nobilem virum Johannem magistrum lindesay de petcrovy Militem vicecomitem de fiffe et dauid Sibbald 6r

de lethame eius deputatum die quarto mensis Septembris Anno domini m° v^c xv^to

The quhilk day In the actioune & cause perseuit be Maister alexander Coluile persone of disarte Aganis dame margarete lady Sinclare Johnne Sinclare dauid mailuile Johnne Inglis williame kirkye Robert Clerk & Thomas murray tueching the allegiit wranguis spoilȝeing fra hyme & his factouris & fermouraris of the fruitis & offerandis & deuiteis of his benefice & personaige of the kirk of disarte as at mare lenth is contenit in oure Souerane lordis lettres & precepte of summondis direct & past tharwpone The said Maister alexander comperand personaly & the said lady be hir procuratour williame clerk thai being lauchfully summound tharto of before Maister James Symsone etc prelocutour for the saide master alexander allegiit that he was Spoilȝeit be the saidis personis of his fruitis offerandis & deuiteis of his said benefice & kirk & for the probacioune of his Intent tharof producit certane witnes quhilkis wer lachfully summond tharto And thane the said williame clerk procuratoure foirsaid alegiit that the pley tharof was dependand before the officer of sanctandrois in the spirituale Court & that tharfore the schiref aucht nocht to knaw tharapone bot he schew na writing nor nane wthir maner of probacione tharof bot desiryt the aith of the said master alexander to be tane tharapone to the quhilk the said Master alexander ansuerit sayand that he knew na dependence of that actione of spoilȝe before the officer be na libel summondis nor of command of hyme nor he suld nocht be compellit to gif his aith tharapone because of Just Ignorance that he knew nocht tharof for the quhilk Ignorance he mycht lesumily be the law refuse to gif his aith tharone/ bot he maid the aith of verite Juramentum calumpnie that he trastit he had ane Just cause baith to persew & defend in the said mater & desyrit the said williame procuratour foirsaid to mak the aith of fidelite siclike that he trastit he had Just cause to propone the said excepcione & to defend the said mater the quhilk the said williame Refusit alutraly bot maid

protestacione and past [furth] of courte allegeand that the witnes producit in the cause war Inimiis to the said lady & personis foirsaid bot he wald prefe na cause of Inamite And thane the Juge gert Cal the witnes for the probacioune of the saide Spoilȝe be the quhilkis It was clerlie prewit that the said personis had Spoilȝeit & takyne wp the said Master alexandris teynd froittis offerandis & deuiteis of his said personaige & kirk of disarte sen the feist of lammes last bipast For the quhilk the Juge being avisit with his assessouris decretis & deliueris that the said personis had [1]done[1] wrang in the spoilȝeing of the said Master alexander his factouris and fermouraris of the said froittis & that tharfore thai had incurrit the panis of law & [*wer*] | in amerciamentis of Court & ordanit the said Spoilȝe to be restoryt eftir the forme of the kingis lettres & gert gif dome of Courte tharupoune & decernit preceptis to be direct for the restitucione of the samyn safer as can be lachfully prevyt 6*v* iiij Septembris

The quhilk day In the actioune and cause persewit be James scot burges of disert factour and fermourar to maister Alexander coluile persone of disert Aganis ane noble lady margaret lady sincler Johne sinclar dauid mailuile Johne Inglis williame kirkye robert clerk and Thomas murray tueching the allegiit wranguis spoilȝeing fra hyme of the fruttis and offerandis of the kirk of disert like as at mare lenth Is contenit in our souerane lordis lettres Impetrat be the said James and ane precept of summondis direct tharupone the said James comperand personalie and the said lady [2]be her procuratour williame clerk thai being lauchfullie summond tharto of before the said James producit publist & schew Ane sufficient lettres of tak maid to hyme of the fruttis of the said kyrk be the said maister alexander & subscriuit with his hand lik as the said maister alexander grantit in Jugement & ratifiit & apprevit the sammyne And thane the said williame clerk procuratour to the said lady allegiit the actione & pley

[1] Repeated in the text.

[2] From here to the end of the entry is in a different hand.

tharof to be dependand befor the officer of sanctandrois in the spirituale court bot he wald schew na probatioun nore evident tharupone bot referrit the probatioune tharof to the aith of the said maister alexander & thane it wes [*ansuerit*] be the said James that the actioune and cause betuix [1]hyme[1] & the said lady aucht nocht to be referrit to the aith of the said maister alexander nore he wald one na wise consent tharto bot desirit that the said williame clerk procuratour for the said lady suld mak sufficient probatioune wpone his allegatioune as the law requirit And desirit the said procuratour to mak Juramentum calumpnie that he traistit he hed Just cause to persew & defend quhilk he rafusit and thane the Juge gart call certane wittnes producit be the said James for the probatioune of his intent quhilkis wer lauchfullie Summond tharto & suorne to the noumer of vj persones And thane the said williame clerk procuratour forsaid allegiit that the said wittnes wer Inimiis to the said lady & tharfor aucht nocht to be resauit bot he wald nocht propone nore scheu na probatioune nore document tharupone nore wald nocht mak the said aith of fidelite Juramentum calumpnie as said is bot protestit & past [furth] of courte And thane because the said williame clerk procuratour for the said lady comperand & admittit in court wald schew na probatione document title nore evident or cause uppone his allegatione bot wourdis allanerly & rafusit to mak Juramentum calumpnie as said is the Juge forsaid tuk the depositionis[2] of the said wittnes wpone the probatioune of the said spoilȝe be the quhilkis it was clerlye preuit that the personis forsaid hed wranguisly but ony Just title of rycht Spolȝeit fra the said James scot factour & fermourar to the said maister allexander the said fruttis of the kyrk of desert & hed taking wp the sammyne sene the feist of lammes last bipast & tharfor decernit & decretit the said spolȝe to be restorit samekle as the said James cane

[1] Repeated in the text.

[2] Transcribed as *depositionis* throughout, although the horizontal suspension sign might justify a form *deponitionis*. On f. 57*r* the new clerk uses the form *depositionis* in full.

lauchfulie preue or the awail tharof & that the said lady Johne Sinclar dauid mailuile Johne ynglis williame kerke robert clerk thomas murray & Ilkane of thaim had incurrit the panis of law & [*wer*] in amerciamentis of courte tharfor & gert gyf dome of court tharupone eftir the forme of law And decernit preceptis to be direct to entir the said James as factour & fermorar forsaid to the fruttis of the said kyrk & to kep & defend hyme tharin according to our Souerane lordis lettres direct tharupone

7r

The quhilk day James logane schiref of lauthiane one Ane parte And Andrew Wardlau the Spous of Isobell broune for hyme self & for the said Isobell his spous & caucionare for hir that scho sall hald ferme & stable quhat he dois in hir name one that wthir parte Tueching the difference betuix thame of the landis of colcarny & otterstoune contenit in ane summoundis tharupone comperand in Jugement ar finaly concordit that the cornes being wpone the ground of the said landis be wonnyn wpone the expensis of the party[1] be williame spittale of luchald williame wardlaw schir williame blaikwod and henry sibbald or ony of thame and to Remane wpone the ground wndisponit in the handis of the wynnar foirsaid quhil the decisioune of the pley/furthcumand to the party havand Richt tharto but preiudice of ony of thar Richtis And in the mentyme the actioune Is be the schireffis continu[i]t to the nixt hed courte with consent of party in hope of concord but preiudice of ony of thame And the parteis to cum befor my lord of the Ilis & my lord priour of Sanctandrois the xij day of the saide Moneth for concord of the said mater & the parteis warnit hereof apud acta And the said Andreuis catale to Remane stil wpone the ground to the decisioune of the pley but preiudice of party And gif It be thoucht mare expedient be ony of the partiis that thai or ony of thame furnis the costis & expensis wpone the wyning of the said cornes & to [*be*] alouit & Recompensit be the party optenand

James logene

[1] *schiref* deleted and *party* added above the line.

James logane

The quhilk day the lard of lewthin producit & schew in Jugement ane chartir of lyfe Rent of the landis of otterstoune maid be williame broune off Collstoune to his soune williame broune the quhilk chartir James logane askyt & Requirit at the schiref foirsaid of his office to mak be Registerit in the court buke of the said schirefdome And that he mycht have the copy of the said chartir actentikly wnder the Sele of office wpone his expensis/for his Releife because he had & producit In Jugement Ane assedacione of the said landis of otterstoune of his tutour that had the life Rent of the samyn

7v blank

8r Curia vicecomitatus de fiffe Tenta [1] Apud villam de Scres per nobilem virum Johannem Magistrum Lindesay de petcrovy militem vicecomitem de fiffe et Dauid Sibbald de Lethame eius deputatum xiij° die Mensis nouembris anno domini Millesimo quingentesimo decimo quinto

Nomina Inquisicionis et assise

Alexander auchmouty de eodem
Henrikus petcarne de petlour [2]
Johannes scheues de kenbak
Johannes claphene de classlogye
Alexander sibbald de rankelour
Johannes forestar de le neutoune
Alexander lochmalo[n]y de eodem
Walterus herriot de burnturk
Johannes Inglis de teruat
Thomas barclay de rynd
Johannes ramkelour de eodem
laurencius burell de newtoune
[3]

[1] *In pretorio burgi de Cupro* deleted here.
[2] *Johannes s* deleted here.
[3] *Johannes forestar* deleted here.

Johannes seitoune de balbyrny
dauid grundistoune de kingask
willelmus archibald de blakhall

Willelmus baxter de qwiltis
Alexandar schethum de skelpy

levingstoune

Qui Jurati Dicunt quod quondam Cristina prestoune Mater Johannis levingstone latoris presencium obiit ultimo [1]vestita et sasita[1] ut de feodo ad pacem et fidem supremi domini nostri Regis de una tercia parte sexte partis terrarum de haltoune de cleische et de tercia parte unius sexte partis terrarum de Middelclesche de tercia parte unius sexte partis terrarum de tore alias doile de tercia parte unius sexte partis terrarum de bordeland et Newynstoune de tercia parte unius sexte partis molendini ciusdem ac de tercia parte unius annui Redditus quindecem denariorum de terris de westir cleische cum uniuersis suis pertinenciis—Jacentibus infra vicecomitatum de fiffe Et quod dictus Johannes presencium lator est legitimus & propinquior heres eiusdem quondam Cristine Matris sue de dicta tercia parte sexte partis omnium & singularum predictarum terrarum et annui redditus cum pertinenciis Et quod est legitime etatis Et quod predicta tercia pars terrarum cum pertinenciis annuo redditu prescripto cuncto excepto valet nunc per annum viginti sex solidis et octo denariis monete currentis scocie Et quod tempore pacis [valuit] tridecim solidis et quatuor denariis Et quod annuus redditus predictus tantum valet nunc per annum quantum valuit tempore pacis Et quod tenentur in capite de supremo domino nostro rege per seruicium Warde et releuii Et quod nunc existunt in manibus supremi domini nostri regis antedicti tamquam domini superioris earundem Juste per seipsum per decessum dicti quondam Cristine ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium quatuor decim annorum elapsorum In quorum fidem et testimonium Sigilla quorundam

[1] The manuscript has *vestitus et sasitus*.

eorum qui predicte Inquisicioni intererant faciende unacum sigillo officii vicecomitis predicti et inclusione breuis regii clauso anno mense die et loco suprascriptis presentibus sunt appensa

8*v* blank

9*r* Curia Vicecomitatus de fiff Tenta Apud burgum de Cupro per Nobilem virum Johannem Magistrum lindesay de petcrovy militem vicecomitem de fiff et Dauid Sibbald de lethame eius deputatum xxij° die Mensis decembris Anno domini m° v^c xv^to

Nomina Inquisicionis et assise

Georgeus dischingtoune de Ardros
Dauid berclay de Culerny
Willelmus lindesay de piotstoune
Johannes claphan de claslogy
Johannes Inglis de teruat
Alexander schethome of caskelpy
Willelmus baxster de qwiltis
Petrus petblatho de eodem
Alexander sibbald de Rankelour
Johannes Rankelour de eodem
Alexander lochmalony de eodem
Karolus Ramsay de foxtoune
Johannes moncor de month

Qui Jurati dicunt quod quondam Walterus heriote de burneturk Auus walteri heriote latoris presencium obiit ultimo vestitus et saisitus ut de feodo ad pacem & fidem supremi domini nostri Regis de uno annuo Redditu quinque librarum usualis monete regni scocie annuatim percipiendo & leuando de uniuersis et singulis terris de burnturk cum pertinenciis Andree ramsay de balmonth domino porcionario de burnturk spectantibus Jacentibus infra vicecomitatum de fiffe Et quod predictus walterus presencium lator est legitimus et propinquior heres eiusdem quondam Walteri aui sui de predicto annuo redditu quinque librarum cum pertinenciis Et quod est legitime etatis Et quod predictus annuus redditus quinque librarum tantum valet nunc per annum quantum valuit tempore pacis Et quod tenetur in capite de domino de balmonth predicto porcio-

nario de[1] burnturk per seruicium albefirme soluendo denarium ad festum penthecostes nomine albefirme annuatim si petatur Et quod nunc existit in manibus predicti domini de balmonth tanquam domini superioris eiusdem iuste per seipsum per decessum dicti quondam walteri ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium xxiiij annorum[2] aut eocirca In quorum etc

The quhilk day the said Inquest seruit the brefe of Tutory of dauid bosuell the aire of auchinlek & fand master Johnne bosuell narrest agnete to hym with the laife of the poyntis of the brefe

xxij° decembris Anno xv^to 9v

Qui Jurati dicunt quod quondam Johannes Lindesay porcionarius de Ardergy pater Alexandri lindesay latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem et fidem supremi domini nostri Regis Infra vicecomitatum de fiffe de una decima octaua parte terrarum et baronie de Wemis westir cum pertinenciis Jacentium infra vicecomitatum de fiffe Necnon de una nona parte terrarum de balmoutho cum pertinenciis Jacentium Infra vicecomitatum predictum Acetiam de una nona parte omnium et singularum terrarum de petconnochye cum pertinenciis Jacentium infra vicecomitatum prescriptum Et q̃uod predictus Alexander presencium lator est legitimus & propinquior heres eiusdem quondam Johannis sui patris de predictis terris cum pertinenciis Et quod est legitime etatis Et quod predicta decima octaua pars terrarum baronie de wemis vestir cum pertinenciis nunc valet per annum quinque marcis Et tempore pacis [valuit] xl s̃/ Et quod Nona pars terrarum de balmowtho cum pertinenciis nunc valet per annum tribus libris et tempore pacis [valuit] xxx solidis Et quod nona pars predicta terrarum de petconnochye cum pertinenciis nunc valet per annum

[1] *balmon* [*the*] deleted here.

[2] The manuscript has *annuorum*.

xxvj s̃ viij đ Et tempore pacis [valuit] xvj s̃/ Et quod omnes et singule predicte terre cum pertinenciis tenentur in capite de Supremo domino nostro rege per seruicium Warde et Releuii Et quod nunc existunt in manibus sue serenitatis tamquam domini superioris earundem ratione warde per decessum dicti quondam Johannis lindesay ob non etatem heredis legitimi Jus suum hactenus minime prosequi valentis ad spacium xvj annorum aut eocirca In quorum etc

10*r* Curia Capitalis vicecomitatus de fiffe Tenta apud burgum de Cupro per Nobilem virum Johannem Magistrum lindesay de petcrovy militem vicecomitem de fiffe et Dauid Sibbald de lethame eius deputatum die Octauo Mensis Januarii Anno domini m° v^c xv^to

plegium The quhilk day dauid kynnere of that Ilke become souerte to the said schireff for beatrice Sibbald the Spous of wmquhile Johnne forraete of that Ilke eftir the forme of our souerane lordis lettres thar producit in Jugement & soumes contenit tharintill And the saide beatrice band and oblist hir be the faith in hir body hir hand uphald to the said dauid to Releife warand & keip hyme scathles tharof in the sekerest forme of obligacioune his aris executouris & assignais [1]

[*Space here : doubtless for absentes*]

amerciatur Quo die Jacobus millar apud molendinum de Wchtirmukty sepe vocatus et non comparens prout erat summonitus per Alanum dempster personaliter ad respondendum ad instanciam Jacobi millare & ste[p]hin gudaile Juxta tenorem precepti desuper fulminati amerciatur per Judicium curie

10*v* Curia Capitalis vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem virum Johannem Magistrum lindesay de petcrovy Militem vicecomitem de fiff dauid

[1] *to the said dauid his aris executouris & assignaes* repeated here.

Sibbald de lethame & andream lundin de Stretharly eius deputatos die primo mensis aprilis Anno domini m° v^c xvj^to

Nomina absencium

s p Sawling
s p bordland
s p Rossith
s p droune
s p Petconnovy
s p Clesche
s p Kinescot
s p Crambeth
s p lochtorschir estir
s p Cowdrane & maw
s p glasmonth
s wemis estir
s p personaris of disert except erth & sinclar
s p Tayssis
s p kincrag
s p lundy
s p Randelstone
s p balcormo
s p Crovy
s p Rerais
s p dawgathie
s p Pin[k]ertone
s lethalland
s p grange
s p balgonowair
s p balmonth
s p westir touch
s p Estir touch
s p Sawchop
s p Pursk narne
s p luklaw
s p barnbowgall

Quo die georgeus Weland intratus & Juratus [est] in sectatorem curie pro terris de forthir Ramsay

Nomina assise & inquisicionis

* Dauid myrtoune of cammo extra West bernis
Johnne claphene of claslogy
Thomas forestar of strathanry
* Dauid balfour of caraldstone
Johnne lumisdene of ardre
Williame monepenny of petmowly
george strang of balcasky
Johne spens of lethalland
Alexander lochmalony of that Ilke
Thomas lumisdene of condolane
Johne drummonth of flass
Johne Setone of balbirny
Alexander sibbald of rankelour
* george erth of smythtone

The quhilk day the said assise & inquest chosin & suorne

at the command of the kingis lettres fand deliuerit & said that the landis of the quhilkis wmquhill robert Cunynghame fader to williame Cunnynghame of the west bernis berrar of the said lettres deit last westit & sasit as of fee ar now worth be ȝeir iij^{c} merkis etc

The quhilk day It was lachfully previt that alexander stirk the soune of alexander stirke duelland in Wchtirmukty Katrine & Isobel his sisteris & Katrine his douchtir had spolȝeit wrangusly fra Jonet rankene the graith [1] of hir pleuch that is to say Somys [2] syderapis [3] culter [4] sok [5] schone bridill ȝokkis [6] & bollis [7] with diuers wthir houshald gere & cornes contenit in ane bill quhilkis the said Alexander stirk eldar had recept & withheld & tharfor was ordanit to restore the samyn within lachful day & dome gevyn tharupone & thai amerciit eftir the forme of law

11*r* The quhilk day in the actioune & caus persewit be Thomas ballingall of the riggis aganis Jonet lithquo and James andersone alias fiddillar hir spous tueching the wranguis intrometting & occupacione of the half toft sted of the landis callit lithquois landis pertenyng to the said Thomas as wes allegiit like as is contenit in ane summondis tharupone the partiis comperand personaly the said Jonet & James allegiit that thai had the said half toft sted of Johne seitone of lauthresk and allegiit hyme warand to thame tharof and askit ane terme to produce thar said warand to the productione of the quhilk the Jugis assignit the penult day of aprile foirsaid and warnit the partiis tharof apud acta

protestacio Quo die henricus Sibbald nomine domini de balgony protestatus est penes clameum domini de Keir militis super terris de balcelly

foret The quhilk day It was fundin be the said assise that margrete forrate the Spous of wmquhile laurence dovery of caldhame suld hafe ane terce & thridparte of the saidis

[1] Accoutrements. [2] Centre-traces. [3] Side-traces.
[4] Coulter. [5] Ploughshare. [6] Yokes. [7] Collars.

landis of caldhame of the quhilkis hir said Spous deit westit & sesyt as of fe/& is befallyne the schadow cavill of the samyn in Jugement And preceptis decernit to beken hir & entir hir tharto eftir the forme of law & consuetude of the Realme

Qui Jurati dicunt quod quondam Johannes abircrumby pater dauid abircrumby latoris presencium obiit ultimo vestitus et saisitus ut de feodo ad pacem et fidem Supremi domini nostri Regis de uniuersis et Singulis terris de Cammeroune cum pertinenciis Jacentibus in dominio et vicecomitatu de fiffe Et quod predictus dauid presencium lator est legitimus et propinquior heres eiusdem quondam Johannis sui patris de predictis terris cum pertinenciis Et quod est legitime etatis Et quod prescripte terre cum pertinenciis nunc valent per annum vigenti duabus marcis Et tempore pacis valuerunt decem marcis Et quod tenentur in Capite de Supremo domino nostro Rege per seruicium feodifirme Et quod nunc existunt in manibus sue serenitatis tamquam domini superioris eiusdem Juste per seipsum per decessum dicti quondam Johannis ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium quinque annorum ultimo elapsorum In quorum etc abircrumby

Qui Jurati dicunt quod de quibus terris et annuis Redditibus cum pertinenciis quondam Magister andreas Wemys patruus Jacobi Wemys latoris presencium obiit ultimo vestitus et sasitus ut de feodo infra vicecomitatum de fiffe penitus ignorant Sed dicunt quod predictus Jacobus presencium lator est legitimus et propinquior heres eiusdem quondam Magistri Andree patrui sui Et quod est legitime etatis Vemis continuatur curia ad penultimum instantis

The quhilk day It was lauchfully preuit that Thomas flemyng & george flemyng brether Spoilȝeit furth of Johnne lausounis ȝhard in the neutone certane aitis extending to iij Rukkis [1] at thar aune handis but officer or ordour lausone

[1] Ricks, or small stacks.

of law the parteis beand present & summound tharto of before

11*v* primo aprilis Anno xvj^to^

Kay Quo die dauid kay protestatus est pro annuo Redditu suo x s̃ tenementi Eduardi Rauf in meliori forma

Wemis Quo die georgius Wemis protestabatur quod non respondeat ad Instanciam magistri Henrici Wemis priusque fuerit nouiter summonitus ex eo quod fuit ut asseruit summonitus ad hunc diem ad ipsius magistri henrici instanciam et minime vocatus aut prosecutus/Cum Intimacione Judici quod non tenebatur summoniri ad aliquem locum nisi tantum ad locum sue habitacionis ville de leith ubi continuam habuit suam residenciam

flemyng Quo die Thomas flemyng prelocutor nomine georgii flemyng sui filii protestabatur quod Judex non procederet contra ipsum in actione prosecuta per Johannem lausone ex eo quod fuit clericus et aliis causis tempore & loco oportunis proponendis

Curia vicecomitatus de fiffe Tenta apud burgum de Cupro per Nobilem dominum Patricium dominum L[indesay] de biris & Johannem lindesay de petcrovy militem vicecomites de fiff dauid Sibbald de lethame & andream lundin de Stretharlie eorum deputatos die penultimo mensis aprilis Anno domini Millesimo quingentesimo decimo sexto

Nomina absencium Sectatorum

s Rossith
s Drone
s petconnochy
s Crambeth
s lochorschir eistir
s Coudrane & maw
s Wemis Westir
s lundy
s Randelstoune
s abircrumby
s petblatho
s fordale
s pynkertoune
s grange

s Westparte of disert except erth
s dowery
s dounfeld
s Taissis
s Seres
s Sandfurd
s kincrag
s balgonwar
s balmonth
s Coule
s Westir touch
s Maristoune
s Sauchope
s Cullerny
s glendouky

Nomina assise & Inquisicionis

Johnne claphane of Claslogy
Walter heriote of burneturk
James sandelandis of crovy
Johnne hay of fudy
Alexander Sibbald of Rankelour
Alexander lochmalony of that Ilke
Charlis Ramsay of foxtoune
Thomas berclay of the Rynd
Dauid tullo of Hilcarny
Thomas lumisden of condolane
George Erth of Smithtoune
Johnne Rankelour of that Ilke
Alexander Schethome of caskelpy

Quo die Johannes drummond de flask Judicialiter requisiuit henricum sibald marum secum pergere apud Inner dovere ad namandum Juxta tenorem literarum regalium

The quhilk day Master dauid Seitoune persone of fethircarne in the Name of Johnne forete the Sone & aire of wmquhile Johnne foret of that Ilke producit & schew in Jugement Ane decrete of the lordis of counsale berand in effect that the baronis quhilkis seruit Williame beddisoune be Inqueist of v merkis of annuell of hal foret of before had errit in thar seruing of his brevis tharof Ignorantlye togidder with ane Instrument of schir Johnne ramsayis hand notar transsumit before the officer of sanctandrois 12r foret

The quhilk day charlis Ramsay of foxtoune foirspekar for [ ][1] batisone and [ ][1] batisone sisteris & aris to the said wmquhile williame batisoune producit in batisone

[1] Blank in manuscript.

Jugement & schew ane grauatour of the officer of Sanctandrois Indorsit with the hand of schir Johnne ferrye chapellane curate of the parroch kirk of Couper quhilk [*MS. Eleiz̃*] contenit that wmquhile Eleizeus foret one his dedbed in his later mynd wil & hour tuke one his saule before witnes that he causit the letteris & evidentis pertenyng to the said wmquhile wilȝame batisone to be abstract & absentit fra hym in defraude of hym & his aris & assignais anent the said v merkis of annuel of foret And that he gerte the said schir Johnne ramsay notar fenȝe ane fals instrument for the stopping of the samyn And askyt god mercy tharof with grite Repentance & besoucht the said curate to Reuele that in his name and ask forgevenes tharof at the party & deliuerit the letteris & evidentis before hym tharof/ & als he schew the curatis Testimoniell of the samyn actentikly in Jugement

Arnote

The quhilk day Master Johnne Spens procuratour for Robert Arnote of wodmylne in his Name proponit & allegiit that the sisteris of Jhonne Rettray of the freland of lundoris mycht nocht be seruit nor enterit be breuis to the said landis because thar brothir the richtwis air tharof wes one lyfe And that the said Robert quhilk was possessour tharof & had Interes tharintil was wnder the kingis Respect [1] grauntit to the bischope of galloway

fedillar

The quhilk day the actioune & cause being depending wnder continuacione betuix Johnne Seitoune of lathreiske & Jonet linlithquo & James fedillar hir spous was with consent of party continuit to the xxvij day of maii [2] nixt to cum as of before wnder hope of concord & the partiis warnit tharof apud acta

allerdes

The quhilk day the actioune & cause Moucte be Jonet balfour the Spous off wmquhile dauid allerdes of Scathowy aganis Johnne Allerdes his sone & Johnne Multrar of seifeld was wnder hoipe of concord with consent of party be williame lindesay hir procuratour & schir williame Scott

[1] Respite.

[2] *foirs*[*aid*] deleted here.

procuratour for thame & cauciounare [1] to the schireff that thai suld hald ferme & stable quhat he did in the actione continu[i]t to the xxvij day of Maii foirsaid & the said schir williame Scot souerte for thar enteres the said day

Penultimo aprilis Rescripto 12*v*

The quhilk day It is appoyntit & acordit in Jugement betuix Thomas lumisden of Condolane one ane parte & Jonet baluard the Spous of wmquhile Robert arnote of Wodmylne one that wthir parte tueching the sustentacione of margrete lumisden the douchtir of wmquhile James lumisden feare of the condolane as folouis that Is to say that the said thomas sal content & pay to hir for the sustentacione of the saide margarete the soume of tuenty ℔ [2] for termes bipast before the daite of this act tharof x ℔ at lammes nixt hereeftir folouing & the uthir x ℔ at martinmes nixt thareftir And termely five ℔ at Ilke terme of witsunday & martinmes eftir the daite of this act to the hame cuming of the bischope of gallovay furth of Ingland And herapone the Juge has decernit preceptis to be direct to poynd & distrenȝe herfor gife neid be eftir the forme of law Condolane

The quhilk day James Scott of disert producit ane summondis dewly execute & Indorsyt wpone margrete lady sinclare & certane wtheris hir complicis contenit thariṅtil & Requirit the schireff to ger call & put the samyn to executione And thane comperit [ ] [3] Ane seruand of the said ladyis & producit our Souerane lordis Respect gevin to the said lady And thane the said James protestit that sene he had done exact diligence to persew his actione & was be parciale menis deferrit fra Justice & had maid grete cost & expensis tharone that the dilacione of tyme suld turne hyme to na preiudice & for remede of law tyme and place oportune & for his costis & scathis sustenit tharthrow Scot

[1] *are* added later above the line.

[2] *zerlie* deleted here.

[3] Blank in the manuscript.

ballingall

The quhilk day the actioune & cause being movit betuix Thomas ballingall of the Riggis & Johnne Seitoune of lothreisk contenit in the summondis tharupone Is with consent of party continu[i]t in all effect & forme as It now Is to the xxvij day of Maii nixt to cum in hope of concord & the party warnit tharof apud acta

lucheris mire

The quhilk day Dauid steuarte of rossith Thomas berclay of the Rynd & [ ][1] procuratour for James skrimgeour constable of Dunde one ane parte & Williame brucc of Erlishall Jonet steuarte his moder & Williame lindesay procuratour for dauid Ramsay of culuthie one that wthir parte tueching the debatable clame of the mire & commone betuix thame contenit in our souerane lordis lettres direct tharupone consentit in Jugement that the catale of thar tennentis had usc & pasturing in the said debatable myre & commoune siclik as thai had of before the diuisioune maid tharof to the decisioune of the pley being Rasit & movete tharupone but preiudice of ony of thar Richtis

13*r*

Curia vicecomitatus de fiffe Tenta apud fundum debatabilem inter dominos de kelle & balcasky per Nobilem dominum patricium dominum Lindesay de biris & Johannem Magistrum lindesay de petcrovy militem vicecomites de fiffe dauid Sibbald de lethame & andream lundin de stretharly eorum deputatos die sexto mensis Maii Anno domini m° v^c xvj^to

Nomina Inquisicionis

Dauid balfour of caraldstoune
Johnne anstrothir of that Ilke
Johnne Spens of lethalland
Johnne Mailuile of carnebe
Alexander Sibbald of rankelour
Williame Seitoune of ramgally
Walter heriote of burneturk
laurence burel of the Neutoune
Johnne setoune of lothreisk
Johnne forestar of the Neutone
Alexander martyne of giblatstoune

[1] Blank in the manuscript. In the blank space *proc* is written.

Charlis Ramsay of foxtoune
Alexander lochmalony of that Ilke
Andrew carstaris of colbaky
Johnne Thomsone in anstrothir
Alexander howburne
Williame patersone
James dunbar in sandfurd
Alexander Kay in anstrothir
Johnne ȝoung in halhill
Symone warandar
Robert Wilsoune
Johnne Mirtoune
Johnne fortune
Michale fortune

The quhilk day George strang of balcasky producit our Souerane lordis lettres togidder with ane precepte of summondis dewly execute & Indorsit quhilk chargeit the schireff of fiff & his deputis to call the said george Johnne Multrar of seyfeld & Master george Striuiling of brakye porcionar lardis of balcaskye one ane parte & Johnne oliphant of kelle kny^{t} one that wthir parte before thame & tak cognitione quhat possessioune the saidis george strang Johnne multrar & master george has bene in of the parte of [the] landis telit saune & laubourit be the said Johnne oliphant of kelle kny^{t} & his seruandis wpone the quhilkis thai complenit in tymes bigane & gife thai fynd thame in lachful possessioune tharof to keip suple & defend thame tharin [in] siclike possessioune ay & quhil thai be lauchfully callit & ordourly put tharfra lik as the saidis lettres proportis be wertu of the quhilkis lettres the Juge gert call the personis aboune writtine chosin wpone inquest & gert thame be suorne in presens of the partiis and admittit be thame quhilkis Removet [furth] of court & be diligent avisment agane enterit fand & deliuerit that the saidis Ge[o]rge Johnne & Master ge[o]rge war in lachfull possessioune of commounte of the saidis landis peceablie in tymes bigane

Curia vicecomitatus de fiffe Tenta Apud burgum de Cupro per Nobilem dominum Patricium dominum lindesay de biris et Johannem Magistrum lindesay de petcrovy militem vicecomites de fiffe dauid Sibbald de lethame & Andream lundin de Stretharlye eorum deputatos xxvij^{o} die mensis 13*v*

Maii Anno domini millesimo quingentesimo decimosexto sectis vocatis etc

Nomina Inquisicionis et assise sequuntur

Master Thomas Meldrum of Segy
James trale of blabo
Johnne claphane of claslogy
Dauid balfour of caraldstoune
Alexander Sibbald of rankelour
Johnne Seitoune of lothreisk
Thomas hay of sandfurd
Johnne martyne of cardwane
George Ramsay of Clatty
James garding of the neutoune
Alexander Narne of sandfurd
Johnne tervat of that Ilke
Williame Seitoune of Ramgally
Charlis ramsay of foxtoune
Alexander skougall of crovy
Johnne Seitoune of balbirny
Eduard bruce
Williame hay of balbethie
Dauid hay of Ardeth
Alexander schethome of caskelpy
Andrew bonare

Secta — Quo die Johannes clawy Intratus & Juratus [est] in Sectatorem curie pro terris de Randelstoune

continuatur — The quhilk day the actione & cause movet & depending betuix Johnne Seitoune of lothreiske & Thomas ballingall as is contenit in the act precedent the penult day of aprile Is with consent of party continu[i]t to the penulte day of Julii nixt tocum as of before & the Remanent contenit in the precepte

continuatur — The quhilk day the actione & cause being depending betuix Thomas ballingall & James fedillar Is with consent of party as of before continu[i]t to the said penult day of Julii tueching his warandice

continuatur — Quo die continuatur tenor [1] precepti summonicionis ut nunc extat inter willelmum setoune de ramgally et Elizabetham butler eius sponsam ab una et Alexandrum Wemis partibus ab altera ad penultimum Julii proxime futurum sub spe concordie

[1] *presencium* deleted here.

Quo die actio Eduardi Rauf continuatur ad penultimum Julii pretacti cum noua Intimacione continuatur

Quo die Joneta forester sponsa quondam Johannis ynsche burgensis burgi de cupro Judicialiter comparens asseruit quod Alexander schethome de Caskelpy et eius sponsa habuerunt et Receperunt certos oues a dicto Johanne in custodia pro graminibus et herbagiis et quod sumpserunt solucionem pro eisdem et petiit dictum alexandrum schethome hujusmodi oues sibi redeliberare/et Johannes bell pastor productus pro teste in premissis asseruit quod nichil habuit agere cum dictis ouibus sed tantum modo quod custodiit ipsos de mandato domini/et Joneta predicta examinavit eundem Johannem bell de clameo eorundem asserendo quod non habuit agere secum nisi tantummodo cum domino skelpy qui recepit solucionem pro eisdem . . .[1] act

Curia vicecomitatus de fiffe Tenta apud burgum de Cupro per Nobilem virum Johannem Magistrum lindesay de petcrovye militem vicecomitem de fiffe [et] dauid Sibbald de lethame eius deputatum die xvij mensis Junii anno domini millesimo quingentesimo decimosexto 14r

Nomina assise

George dischingtone of ardros
Thomas forester of strathanry
Dauid spens of wilmerstoune
Thomas hay of Sandfurd
George erth of Smythtoune
James garding of newtoune
Thomas berclay of Rynd
Dauid balfour of caraldstone
Alexander auchmowty of that Ilke
Andrew bonare of frertone
Charlis ramsay of foxtoune
Alexander schethum of caskelpy
Williame cokburne of tretone
Johne claphene of claslogy
Williame spittale of luchat

[1] Entry incomplete,

logane

Quo die in causa mota per Jacobum logane vicecomitem deputatum de Edinburgh contra et aduersus Andream wairdlaw et Elizabetham brone eius sponsam Judex assignauit terminum videlicet penultimum Julii proxime sequentem pro publicacione testium per eundem Jacobum productorum in causa ac partibus prescriptis ad producendum in dicto termino et ad probandum hinc inde super contentis in literis regiis et aliis suis intencionibus prout uti voluerint ad perdendum et lucrandum et partes desuper premunite Apud acta

Auchmouty

The quhilk day It was preuit in Jugement be george dischingtoune of ardros Johne claphene of claslogy dauid balfour of caraldstone & wtheris baronis & frehaldaris being chosin and suorne of befoir apone ane assise betuix Alexander auchmouty of that Ilke & [ ][1] nicholsone his tenent tueching the debait of ane wakker scheris that the said Alexander did na wrang in the poynding and distrinzeing of the said [ ][1] nycholsone tenent of his ground for the birun malis & dewiteis aucht to hyme of the samyn

14*v*

Curia Vicecomitatus de fiffe Tenta In pretorio burgi de cupro per dauid gregore et Thomam grundistone vicecomites deputatos de fiffe die penultimo mensis Julii anno domini millesimo quingentesimo sextodecimo Sectis vocatis curia affirmata etc

continuatur

The quhilk day the actione & cause movet & depending betuix Johne Seitone of lauthrisk and Thomas ballingall of the riggis as is contenit in the act precedent Is with consent of party continuit to [the] xix day of august nixt to cum as of befoir

continuatur

The quhilk day the actioune & cause being depending betuix Thomas ballingall & James fedillar is with consent of party as of befoir continuit to the said xix day of August foirsaid tueching his warandice

[1] Blank in manuscript.

protestacio

The quhilk day Johnne dauidsone protestit that he suld nocht be compellit to ansuere at the instance of [*mariory pousta*] [1] eftirwert because he wes summond at his [*hir*] instance to the said day & nocht callit nore persewit to the tyme he had his expenssis as efferit

continuatur

The quhilk day the actioune and cause being movet betuix Thomas hay of sandfurd & Alexander Narne Is continuit be the schireff foirsaid of his office for waikness of Court to the xix day of August nixt tocum as of befoir

continuatur

The quhilk day the actione & cause being depending betuix williame setone of ramgally & Alexander wemis is with consent of party as of befoir continuit to the xix day of august nixt to cum

continuatur

The quhilk day the act[i]one & cause being betuix walter herriot of burnturk & george erth like as is contenit in bayth thar preceptis tharupone Is with consent of thame baith continuit to the xix day of August forsaid

continuatur

The quhilk day Al actionis being depending wnder continuacioune or summondis [2] to this court [2] ar be the schiref deputis foirsaid for debilite of courte of thar officis continuit to the xix day of august nixt tocum as thai now ar but preiudice of party & warning maid publict tharapone at the tolboith stare as the Maner is

continuatur logane & wardlaw

The quhilk day In the actioune & cause being movet & depending betuix James logane schiref depute of Edinburgh one Ane parte & Elizabeth broune & Andrew wardlaw hir spous one that wthir parte the partiis foirsaid comperand personaly The said Andrew wardlaw producit & schew my lord gouernouris writtingis subscriuit with his hand At the command of the quhilk the deputis foirsaid continuit the hale actionis & summoundis betuix thame to the xix [2] day [2] of august nixt to cum/& gert summound the witnes in Jugement producit be the said James to the said

[1] Blank in manuscript. Name derived from succeeding entry on p. 38.

[2] Added above the line.

day & warnit the partiis tharof apud acta as of before & to the samyn effect

15*r*

continuatur The quhilk day the actioune & cause perseuit be dauid balfour of lalethine & the personis contenit in ane precepte of summoundis aganis Jonete Ramsay the Spous of wmquhile george balfour of lalethine as at mare lenth Is contenit in the said precepte & hir barnis Is with consent of party continu[i]t to the xix day of August nixt tocum in forme & effect as It now [is] but preiudice of party And the partiis warnit tharof apud acta with thar witnes summound tharto

continuatur The quhilk day the actioune & cause perseuit be Jonete Ramsay the Spous of wmquhile george balfour contenit in ane precepte of summondis maid & direct tharupone aganis dauid balfour of Lalethine & his collegis contenit in the said precepte Is with consent of party continu[i]t to the said xix day of August in forme & effect as It now is but preiudice of party & thai warnit tharof apud acta with thar witnes

protestacio The quhilk day James logane schiref deput of Edinburgh Requirit the said schiref deputis of thar office to proceid & minister Justice in the actioune betuix hyme & androw wardlau & Elizabeth broune his spous eftir the forme & tenour of the Kingis lettres producit be hyme & protestit that the dilay tharof or quhat war done in his contrare & preiudice suld turne hyme to na scath nor preiudice & for the preuileige & Remede of law tyme & place neidfull & askyt the deposicionis of his witnes to be publist eftir the forme of law as that day that wes assignit tharto

amerciatur The quhilk day Johnne dauidsone in carale ofttymes callit & comperit nocht was in amerciament of court as he that was lachfully summound to ansuere at the Instance of mariory pousta be eduard colyne mare & dome gevyn tharupone

protestacio The quhilk day Alexander schethome of Caskelpy personaly in Jugement comperand offerrit hyme Reddy to

ansuere at the Instance of Jonete forestar as he that was tharto summound of before & because thar was nane to persew hyme protestit for his expenssis or he ansueryt agane at hir Instance

Quo die georgeus comes de Rothas amerciatur quia minime comparuit ad respondendum ad Instanciam thome fleming sub tenore summonicionis desuper directe amerciatur

Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Thomam grundistone vicecomitem deputatum de fiffe die duodecimo mensis augusti Anno domini m° v^c xvj^to 15v

The quhilk day the actioune & cause perseuit be Johnne lausone aganis Andrew lausone his brothir in presens of baith the partiis wes be the schiref depute foirsaid of his office for debilite of court continuit in forme & effect as it now is to the xix day of august foirsaid but preiudice of party And the partiis & the witnes warnit tharof apud acta continuatur

The quhilk day Johnne forret duelland at the Milne of forreat wes oft tymes callit & comperit nocht as he that was lachfully summound be Eduard Colyne mare tharto at the Instance of Thomas berclay of the Rynd was adiugeit in amerciament of courte and dome gevyn tharupone And ordanit to be warnit to the nixt court to here the productione of certane witnes to be producit tharto be the said thomas with intimacione tharupone as efferyt amerciatur

The quhilk day Johnne Seitoune of lothreisk comperit personaly alegeand that the actioune betuix hyme & Thomas ballingall of the Riggis wes continu[i]t to the said xij day of august And because he wes nocht perseuit protestit that he war nocht compellit to ansuere but new summoundis & for the priuilege of law & his expenssis as efferyt protestacio

Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per nobilem dominum Patricium dominum Lindesay 16r

de biris Johannem magistrum lindesay de petcrovy Militem vicecomites de fiffe Thomam forestar de strathanry et Dauid Sibbald de lethame suos deputatos et eorum quemlibet coniunctim et diuisim die xix° mensis Augusti anno domini millesimo quingentesimo xvj^to Sectis vocatis curia affirmata etc

Quo die Thomas forestar de strathanrye electus creatus constitutus et Juratus [est] in deputato vicecomitum de fiffe predictorum pro fideli ministracione in hujusmodi officio ante curie defensacionem et in curia defensata usquedum exoneretur [1]

Nomina Inquisicionis et assise

Andreas Seitoune de perbroth	Alexander Sibbald de Ramkelour
Dauid berclay de Culerny	Johannes Ramkelour de eodem
Johannes seitoune de lothreisk	Dauid tullo de hilcarnye
Dauid spens de wilmerstoune	Thomas berclay de Rynd
Dauid balfour de caraldstoune	Dauid berclay de touch
Alexander lochmalony de eodem	Johannes setoune de balbirny
Willelmus Seitoun de Ramgally of bonare	Thomas ballingall de Riggis
[2] Nicholaus skrimgeour de lillok [2]	Johannes Moncor de month

Tervat

Qui Jurati dicunt quod quondam Johannes tervate de eodem pater Alexandri terwate Latoris presencium obiit wltimo vestitus et saisitus ut de feodo ad pacem et fidem Supremi Domini Nostri regis de Tota et Integra dimedietate omnium et singularum terrarum de hilcarnye cum pertinenciis Jacentium infra vicecomitatum de fiffe Et quod predictus Alexander presencium lator est legitimus et propinquior heres eiusdem quondam Johannis sui patris de predicta dimedietate terrarum de hilcarny cum perti-

[1] The manuscript has *exonerretur*.

[2] Added later.

nenciis Et quod est legitime etatis Et quod predicta medietas terrarum de hilcarny cum pertinenciis valet nunc per annum viginti marcis Et tempore pacis valuit tribus marcis Et quod tenetur In Capite de supremo domino nostro rege per seruicium warde et Releuii Et quod nunc existit in manibus sue serenitatis tanquam domini capitalis eiusdem Racione warde per decessum dicti quondam Johannis ob [1] non etatem [1] heredis legitimi Jus suum hactenus minime prosequi valentis ad spacium septem Annorum ultimo preteritorum aut eocirca In quorum etc

lothreisk

The quhilk day in the actioune & cause of distrowbillance & bloidewyte perseuit be Johnne huntare aganis Johnne harpare duelland At the mylne of orkye was Replegiate be Johnne Seitoune baroune of lothreisk to his courte of the said baronye and lattyne to borgh to hyme because he schew his Infeftment tharof with priuileige of bloidwittis And that the milne of orky lay within the said baronye and was ane pendicle of the samyn

continuatur balfour & Ramsay

The quhilk day the actionis & causis movete betuix dauid balfour of lalethine & Jonete Ramsay thar with thar collegis & complicis Ilkane aganis wtheris ar be suplicacione of my lord Archibischop of Sanctandrois etc continu[i]t in all effect & forme as thai now ar but preiudice of party in hoipe of concord to the xvj day of october nixt,tocum And dauid berclay of Culerny caucione to the schiref in Jugement for the enteres of the said Jonete & hir party & dauid balfour for hyme & his party

xix Augusti Anno xvj^to^ 16*v*

lothreisk de orky

The quhilk day Johnne lothreisk the sounc & aire of wmquhile Alexander lothreiske of orkye protestit in Jugement that albeit that the schiref foirsaid had lattine the actione of distroublance & bloidwyt foirsaid to borgh to Johnne Seitoune of lothreisk as baroune of the samyne

[1] *defectum* deleted and *non etatem* added above the line.

that the said Replegiacioune tharof suld turne hyme his aris nore heretaige to na preiudice & for the priuilege of law

Sibbald — The quhilk day in the actioune & cause perseuit be Andrew Sibbald burges of disert aganis Johnne lauthreisk baillie of the said burgh . . .[1]

berclay — The quhilk day Johnne forret grauntit in Jugement that he keist nocht the turffis be na title of richt of forret wpone the quhilk the said thomas complenit bot of tollerance of the said Thomas

Ramgally & Wemis — The quhilk day the actioune & cause movet betuix williame seitoune of ramgally one ane parte & Alexander wemis & Ewe butlere his Spous one that wthir parte contenit in ane summoundis tharupone Is with consent of party continu[i]t as of before to the hede schiref court nixt eftir michalmes but preiudice of party wnder hoipe of concord & the partiis warnit tharof Apud acta

Continuatur — The quhilk day the bloidwite of Strethore Is continu[i]t be the schiref of his office to the said hede courte

Continuatur — The quhilk day the actionis & causis movete betuix Thomas ballingall of the Riggis & James fedillar & his spous aganis Johnne Seitoune of lothreisk as Is contenit in the actis of court tharapone of before Is with consent of party continu[i]t to the hede court nixt eftir michalmes but preiudice of party & the partiis warnit tharof apud acta

The quhilk day the actione betuix the lady wemis & Thomas levingstoune & the parteis contenit in the preceptis tueching the landis of glasmont is with consent of party continuit to the hed court nixt eftir michalmes & the partiis warnit tharof apud acta

bonare — Qui Jurati dicunt quod quondam Jacobus bonare Auus willelmi bonare latoris presencium obiit ultimo vestitus et saisitus ut de feodo ad pacem et fidem Supremi domini nostri regis de uniuersis et singulis terris de baledmond

[1] Entry incomplete.

cum pertinenciis Jacentibus in baronia de nachtane infra vicecomitatum de fiffe Et quod predictus willelmus est legitimus & propinquior heres eiusdem quondam Jacobi etc Et quod est legitime etatis Et quod [dicte terre] nunc valent xx^{tl} ℔ monete currentis scocie et tempore pacis [valuerunt] iiij ℔ Et tenentur de domino gra tamquam barone baronie de kynnef per seruicium feodifirme [1] Et existunt in manibus eiusdem tamquam domini superioris earundem per decessum dicti quondam Jacobi ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium xxiij annorum aut eocirca In quorum etc Necnon et de xl s̃ annui Redditus terrarum de croftoune cum pertinenciis Jacentium infra vicecomitatum predictum

Soluendo eidem domino gray superiori ij s̃ annuatim Et domino de Nauchtane xviij s̃ Necnon abbati et conuentui insule sancti columbe xx s̃ annuatim nomine feodifirme

Curia Capitalis vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem virum Johannem Magistrum lindesay de petcrovy militem vicecomitem de fiffe Willelmum Monypenny de petmoly et Dauid Sibbald de Lethame eius deputatos ultimo die mensis Septembris Anno domini m^{o} quingentesimo xvj^{to} 17*r*

Eodem die Willelmus monypenny de petmolye creatus deputatus constitutus et Juratus fuit ad officium deputati vicecomitis de fiffe de fideli administracione in hujusmodi officio ante curiam et in curia defensata usquedum exoneretur

The quhilk day agnes lessaellis the Spous of wmquhile lessaellis Johnne garding of wodhavin was be Inqueist of courte of the quhilkis the Names here eftir folouis seruit of the terce & thridparte of the half landis of wodhavyne with

[1] There is an omission sign here, doubtless indicating the place for the insertion of the last paragraph.

thar pertinentis liand in the schirefdome of fiff of the quhilk the said wmquhile Johnne hir Spous deit westit & sesyt as of fee with the soune cavil of the samyn in Jugement

Nomina absencium

s p Rossith
s p Drone
s p petconnoquhie
s p cleische
p Arnegorsk
s p lochorschire eistir
s p coudrane & mau
s p glasmonth
s Wemis eistir
s p disert wauchtone
s p doverye
s p Taissis
s p Ardros
s p kincrag
s p Rerais
s p Kellye
s p Ardre
p Kynmukkis
s p foret
s p petcullo
s p dalgathie
s p pinkirtone & pettollye
s p balgonoware
s p eistir touche
s p vestir touche
s p balhuffye
s p lumbany berclay
s p Sauchope
p Culerny

Seifeld

The quhilk day Johnne multrare of Seifeild proponit ane excepcione in the actioune movet be Jonete balfour the spous of Thomas baird burges of Edinburgh & the said Thomas aganis the said Johnne & Johnne allerdes of scathovye to quhame he was curatour sayand & allegeand that the said Johnne nore he suld nocht ansuere at thar instance in the cause becausé thai war nocht summound as he allegiit & askit the interlocutour of courte tharupone quhilk excepcione was fundin of nane avale & the summoundis appreuit lachfully done & intimacione maide personaly to the saidis Johnne multrare & Johnne allerdes

Secta

Quo die Alexander auchmouty de eodem intrauit willelmum dovery sectatorem pro terris suis de auchmouty qui receptus fuit per vicecomitem et Juramentum corporale desuper prestitit ut moris est de fideli administracione in hujusmodi officio usquedum exoneretur

Nomina assise et Inquisicionis

Johnne claphane of claslogy
Johnne Seitoune of lothreisk
Johnne hay of fudy
Alexander sibbald of rankelour
Dauid balfour of caraldstoune
Walter heriote of burneturk
Johnne Rankelour of that Ilke
James garding of neutone
Alexander lochmalony of that ilk
Thomas hay of sandefurd
Alexander Narne of pursk
Michale tullo of hilcarny
Alexander schethome of skelpy

The quhilk day Johnne multrare foirsaid protestit that he suld nocht be compellit to ansuere at the Instance of the said Jonete & thomas wpone the summondis consauit aganis hyme quhil Restitucione war maid of the evidentis gudis & othir clames contenit in the decrete gevin betuix thame be the lordis of Counsale thar publist

Ultimo Septembris Anno xvj^to^ 17v

balfour & multrare

The quhilk day Jonete balfour the Spous of wmquhile Dauid Allardes of scathovy & Thomas baird burges of Edinburgh hir Spous moderne one ane parte & Johnne Multrare of Seifeld curatour to Johnne allerdes of scathovy one that wthir parte comperit personaly as thai that war lachfully summond tharto of before And the said Johnne allerdes summond alsua with intimacione personall comperit nocht as wes lauchfully preuit the schiref foirsaid gert Reid the kingis lettres being thar producit be the said Jonete And with consent of party tuke the said Jonetis deposicione wpone the gudis & evidentis contenit in the decrete of the lordis of counsale of the quhilk mensioune was maid in the saidis lettres quhilk be hir grite aith deponit that scho hed fulfillit the said decrete in safer as scho wnderstude concernit hir to do And quhat that wes nocht fulfillit scho suld fulfil & deliuer to the Juge at the nixt court the penult day of october nixt

tocum al evidentis & gudis wndeliuerit safer as scho wist of had or mycht get/And the said Johnne multrare allegiit that the decrete was fulfillit for the partis of hyme & the said Johnne allerdes and offerrit hyme to prefe the samyn To the quhilk the Juge assignit to baith the partiis the said penult day of October in the hour of cause with baith thar consentis & decernit preceptis to be direct to summound thar probacionis tharto And in the mentyme the Juge with consent of party has tane the deposicionis of the witnes producit be the said Jonete & ordanit the samyn to be closit to the said day And gert summond the said partiis in Jugement apud acta to produce agane the said day sic evidentis & probacionis as thai wil wse baith to tyne & vyne & to here the said lettres be put to dew executione as efferis but forthir dilay & the said probacionis Resauit & admittit as effeiris

Levingstoune

The quhilk day the Actioune & cause perseuit aganis margarete levingstoune the douchtir & aire of wmquhile Robert levingstoune of wemis kny^{t} & dame Jonete betoune his spous be thomas levingstoune Is with consent of the said Thomas/& master James symsone persone of kirkforthir procuratour to the saidis dame Jonete & margrete continu[i]t in al effect and forme as It now Is wnder hoipe of concord continu[i]t to the saide penult day of October/ & in the mentyme be the extencione of thar handis has referrit the actione to mast Reuerend faderis in crist the Archibischoppis of Sanctandrois & glashgew

Leslie

The quhilk day Roberte leslie prelocutor for margrete leslie tennent of the landis of glasmonth producit ane letter of tak of the saide landis for hir title tharof And allegiit the [ ][1] to warand of the samyn to the productione of the quhilk warand the Juge assignit the said penult day of october

18*r*
Clatty

Qui Jurati dicunt quod quondam Willelmus Ramsay dominus feodi de clatty pater georgei Ramsay Latoris

[1] Blank in manuscript.

presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem et fidem supremi domini nostri Regis de uniuersis et singulis terris et dominio de clatty et bateiscraggis cum turre fortilicio pendiculis outsettis et pertinenciis Jacentibus Infra vicecomitatum de fiffe Et quod predictus georgeus presencium lator est legitimus et propinquior heres eiusdem quondam willelmi patris sui de predictis terris et dominio cum turre fortilicio pendiculis et outsettis cum pertinenciis Et quod est legitime etatis Et quod predicte terre et dominium cum turre fortilicio pendiculis outsettis cum pertinenciis valent nunc per annum quadraginta libris monete currentis scocie Et tempore pacis valuerunt decem libris Et quod tenentur In capite de supremo domino nostro Rege per seruicium warde et releuii Et quod nunc existunt in manibus sue serenitatis tamquam domini superioris earundem quo ad feodum [1]eiusdem[1] Juste per seipsum per decessum dicti quondam willelmi domini feodi earundem ad spacium vij annorum Et liberum-tenementum [1]eiusdem[1] per decessum quondam Johannis Ramsay Aui dicti georgei domini liberetenementi earundem ad spacium xl dierum aut eocirca ob defectum heredis legitimi Jus suum hactenus minime prosequentis

Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Thomam grundistoune vicecomitem deputatum de fiffe xvj^to^ die mensis octobris Anno domini millesimo quingentesimo xvj^o^ Sectis vocatis etc 18*v*

Nomina assise

Johnne Rankelour of that Ilke
Williame Cokburne of the Newtoune
Dauid grundistoune of kingask
Johnne Moncor of the month
Dauid balfour of evynstoune
Williame Archibald of blakhall
Alane Jamisone burges of Couper
Andrew balcomy burges of couper
Petir huhonstone burges of Couper

[1] So the manuscript; read *earundem*?

Williame ged in kynmukkis

Dauid flescheare burges of couper
Andrew bell In kynmukkis
Johnne Alexandersone thare

balfoure

The quhilk day In the actioune & cause Movete betuix dauid balfour of lalethine & marioune his Spous one ane parte & Jonete Ramsay the Relict of wmquhile george balfour Andrew balfour hir sone margarete Jonete & cristiane his sisteris & Johnne thar brother bastard one that wthir parte tueching the distroubillance & bloidwite allegeit Ilkane done til wtheris as is at mare lenth contenit in Ane summoundis tharupone & continuacioune of the samyn maid of before The schiref deput foirsaide gert call the saidis partiis eftir the forme of the foirsaid continuacione maid tharupone of before And the saidis dauid balfoure & marioune his Spous comperit personaly and offerrit thame to wnderly the knaulaige of the said assise upone the said actione And the said depute gert call dauid berclay of Culerny to Intir the saide Jonete and hir barnys as he that become souerte to the schireff principale of before for thare Intraes to the said Courte quhilk comperit nocht he being oft tymes callyt And thane the saidis Dauid & marioune his Spous being accusit in Jugement of the said distroubillance & bloidwyte/denyit the samyn & tuke thame to the knawlaige & deliuerance of the said assise quhilkis suorne passit [furth] of courte & Riplie and weile avisit reinterit & deliuerit be the mouth of the saide williame cokburne that the saidis dauid & marioune his Spous war qwytt chargeles & fre of the said distroubilance bloid drauing & of the witte of the samyn

19r

Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem virum Johannem Magistrum lindesay de peterovy militem vicecomitem de fiffe et Dauid Sibbald de lethame eius deputatum die penultimo Mensis Octobris Anno domini Millesimo v^co xvj^to

The quhilk day george dischingtoune of Ardros become

caucione & souerte to the schireff for Annabell abircrumby the relict of wmquhile george dudingstoune eftir the forme & tenour of our Souerane lordis lettres for the poyntis contenit in the samyn

The quhilk day the actioune & cause movete be Annabell abircrumby foirsaid aganis Jonete Stewarte the relict of wmquhile Stevine dudingstoune of Sandefurd Is with consent of party continu[i]t to the ix day of december wnder hope of concord & the partiis warnit be thame self & thar procuratouris apud acta Reseruand al excepcionis to thame tyme & place oportune

The quhilk day the actioune & cause movete be Elizabeith wemys Aganis the Countis of Rothaes as Is contenit in the precepte of summoundis tharupone Is with consent of the said Elizabeth one ane parte & Master dauid Spens persone of flisk & schir henry balfour chapellane procuratouris for the said Countis with sufficient pouer present Red & admittit in Jugement one that wthir parte continuit to the ix day of December nixt tocum wnder hope of concord but preiudice of party And all the continuacionis maid tharupone of before Ratifiit & appreuit be the said procuratouris

The quhilk day the actioune & cause being depending betuix Thomas ballingall of the Riggis & James fedillar & [*Jonet Lithquo*] [1] his spous is with consent of party contĩnu[i]t to the hede courte nixt eftir ȝowile but preiudice of party and the partiis warnit tharof apud acta

Nomina Inquisicionis

Alexander teruat de eodem
Johannes seitoune de Lathreisk
Johannes claphane de claslogy
Willelmus scott de Innerttile miles
Johannes seitoune de balbirny
Willelmus lindesay de piotstoune
Dauid balram de eodem
Thomas ballingall de [2]riggis[2]

[1] Blank in manuscript.

[2] *eodem* deleted and *riggis* added later.

Willelmus seitoune de Ramgally
Dauid grundistoune de kingask
Dauid kynninmont de eodem
Alexander wemys
Georgius leslye in heichame

19v Qui Jurati dicunt quod quondam Johannes fouty burgensis burgi de Cupro patruus Jonete fouty latricis presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem et fidem supremi domini nostri Regis de decem acris terrarum arabilium quarum quatuor Jacent in le castell feild prope dictum burgum et quatuor Jacent in le port feild prope burgum prescriptum et alie due acre Jacent in territorio de minore terwat infra vicecomitatum de fiffe Et quod predicta Joneta presencium latrix est legitima et propinquior heres eiusdem quondam Johannis patrui sui de predictis decem acris terrarum arabilium cum pertinenciis Et quod est legitime etatis Et quod dicte acre terrarum cum pertinenciis valent nunc per annum quinque marcis monete currentis scocie Et quod valuerunt tempore pacis viginti solidis Et quod sex acre terrarum prescriptarum tenentur in capite de domino [1] newhall per seruicium albefirme soluendo ð si petatur Et quod due acre earundem terrarum tenentur in capite de domino ardre eciam per seruicium albefirme soluendo eciam ð Et relique due acre terrarum tenentur in capite de domino de minore terwat eciam per seruicium albe firme soluendo ð ut supra Et quod nunc existunt in manibus dominorum superiorum pretactorum iuste per scipsos per decessum dicti quondam Johan[n]is fouty ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium duorum mensium elapsorum aut eorcirca & etc

balfoure et T bard The quhilk day in the actioune and cause mouete be Jonete balfoure the spous of wmquhill dauid allerdes of scaithowye and Thomas bard burges of Edinburgh now hir spous aganis Johnne multrare of Scifeild curatour to Johne allerdes the sone and aire of the said wmquhile

[1] *ardre* deleted here.

dauid [1] & the said Johnne allerdes [1] tueching the wranguis eiectione & furthputting of hir furth of the said landis of scathowye and wranguis awaytaking fra hir furth of the said landis of certane cornes catell and wthir insicht & mowable gudis like as is contenit in the Kingis lettres impetrat be the said Jonete & direct to the schiref of fiffe & his deputis tharupone the said Jonete producit certane witnes to preif hir intent in the said actioune quhilkis wer resauit suorne & admittit of befoir in presens of the saidis partiis the last day of September nixt preceding the dait herof and thar deposicionis ordanit to be closit to this penult day of october and the partiis warnit & summond in Jugement to compere at this penult day foirsaid to here & see the deposicionis of the said witnes publist & the decret of court gewin & pronuncit in the nota said actioune be the quhilk witnes it wes lachfullie preuit that the saidis Johne multrare and Johne allerdes had wranguislie & aganis the law put furth the said Jonet balfoure of the landis of scaithowye befoir the feist of 3ouil nixt eftir the feild & intromittit with all the cornis catell & wthir gudis being tharin And had taikin wranguislie fra hir & intromettit with in speciall xxiij bollis of aittis price of the boll iiij ℔ iij ky [2] price of ij iiij merk & of the thrid xxiiij ℔ ij hors the price of ane v merk & of ane wthir xxviij ℔ Ane gowne price iij ℔ A salt mert [3] & ane half price xxvij ℔ ane fed swyne price x ℔ vj scheip price of the pece iiij ℔ Ane quote of kelt [4] vj ℔ viij đ ij geys ij ℔ ij stane of buttir price of the stane v ℔ iiij đ wthir half stane of candil [5] price of the stane iij ℔ vj đ A bol of malt price viij ℔ iiij ℔ of lynt [6] iiij ℔ And tharfor the schiref forsaid decretit that the saidis Johne & Johne suld restor & deliuer to the said Jonet the foirsaid gudis hors corne & catell als gud as thai wer takin or the awaile & price foirsaid within the terme of law and ordanit preceptis to be direct heirapone in dew forme as efferis & to poynd & distrenze tharfor gif neid war

[1] Added above the line.
[2] Cows.
[3] The salted carcase of a cow or ox.
[4] A kind of friezed cloth.
[5] Tallow-fat.
[6] Flax.

20*r* Curia Vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem dominum Patricium dominum Lindesay de biris vicecomitem de fiffe Andream lundin de stretharly dauid berclay de touch et Thomam grundistone eius deputatos et eorum quemlibet coniunctim et diuisim die Nono Mensis decembris anno domini Millesimo quingentesimo xvj^to^ Sectis vocatis Curia affirmata etc

Nomina Assise et Inquisicionis

Schir petir creichtoune of the nauchtane kny^t^
Androu seitoune of perbroth
Dauid barclay of culamy
Master thomas meldrum of segy
George dischingtoune of ardros
Jhonne claphane of closlogye
Alexander borthweik of gordonishaul
Alexander louchmalony of that ilk
Thomas hay of sandefurde
Alexander Narne of sandfurd
Petir petblautho of that ilke
James gardyne of newtoune
Alexander schethome of caskelpy

The quhilk day Jonete ramsay the spous of umqwhile george balfoure of lalethine becom souerte to the schirrafe for hir selfe hir hand and gudis for the wnlawis of court for the blodwitis in the actione and cause mowit be tuix hir and hir barnis one ane part and dauid balfoure of lallethine on that wthir part as the law of cowrt or iugement of arbitrie requiris to the quhilk arbitrie the partiis forsaid ar compromittit And the said Joneit sworne in iugement that scho has nocht gewine analiit assignit disponit nore put away nane of hir gudis in defraud of the said plege and souerte

The quhilk day the actione and cause mouit betuix Annabel abircrumbye and Jonete stewart contenit in the summundis thar upone is be the schirrafe of his ofice continuit to the hede court nixt eftir 3owlie because of diuers lettris of the kingis producit be the partiis

The quhilk day master Johnne Spens procuratour for

Jonete Stewarte the Relict of wmquhile Stevyne dudingstoune alegeit that the gudis of aireschipe clamete be annabell abircrummy & master James carmour hir procuratour contenit in ane precepte of summondis tharupone war be compulcione of the kingis lettris tharupone direct deliuerit to walter arnote tutour datiue to Stevyne dudinstoune like as the kingis lettris execute tharupone & producit in Jugement proportit

Qui Jurati dicunt quod quondam Andreas lundy de balgony Miles pater Jacobi lundye de balgony latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem et fidem Supremi domini nostri regis de tota & Integra bina parte omnium et singularum terrarum de grenesyde cum pertinenciis Jacentium infra baroniam de kelle & vicecomitatum de fiffe Et quod predictus Jacobus presencium lator est legitimus & propinquior heres eiusdem quondam andree militis sui patris de predicta bina parte terrarum de grenesyde cum pertinenciis Et quod est legitime etatis Et quod predicta bina pars terrarum de greynesyde cum pertinenciis valet nunc per annum quinque marcis Et quod tempore pacis valuit viginti [1] quatuor solidis Et quod tenetur in capite de domino de kelle barone baronie eiusdem per seruicium albefirme soluendo unum ₫ monete currentis scocie in festo penthecostes si petatur tantum Et quod nunc existit in manibus predicti domini de kelle tanquam domini superioris eiusdem Juste per seipsum racione decessus dicti quondam Andree militis ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium quatuor annorum aut eocirca In quorum etc 20v balgony

Qui Jurati dicunt quod quondam dauid betoune de Creich pater Johannis betoune latoris presencium obiit ultimo vestitus & sasitus ut de feodo ad pacem & ad fidem supremi domini nostri regis de uniuersis & singulis terris de flysk cum pertinenciis extendentibus annuatim ad quinquaginta marcas Et de octaua parte terrarum de flisk betoune

[1] The manuscript has *vinginti*.

millane Et de tricesima quinta parte de Remanentia & residuo dictarum terrarum de fliskmillane cum suis pertinenciis Jacentibus infra vicecomitatum de fiffe Et quod predictus Johannes presencium lator est legitimus et propinquior heres eiusdem quondam dauid sui patris de predictis terris cum pertinenciis Et quod est legitime etatis per dispensacionem supremi domini nostri regis sibi desuper literatorie concessam Et quod prescripte terre cum pertinenciis valent nunc per annum trigenti septem libris & decem solidis monete currentis scocie Et quod valuerunt tempore pacis octo libris Et quod tenentur In capite de supremo domino nostro rege per seruicium warde & releuii Et quod nunc existunt in manibus sue serenitatis tanquam domini superioris earundem racione warde per decessum dicti quondam dauid ob non etatem heredis legitimi Jus suum hactenus minime prosequi valentis ad spacium duodecim annorum elapsorum aut eocirca in quorum etc

The quhilk day dauid balfoure of lalethine was souerte to the schireff for hyme selff for the wnlaw gif he war conuict be Jugement of courte or be arbitrie in the actioune betuix hyme & katerine [*Jonet* ?] Ramsay the Spous of wmquhile george balfour

21*r* Curia Capitalis vicecomitatus de fiffe Tenta In pretorio burgi de cupro per Dauid Sibbald de Lethame et Thomam grundistoune vicecomites deputatos de fiff die xiij^{o} Mensis Januarii Anno domini m^{o} v^{c} xvj^{to}

Nomina absencium

p s Sauling
p s blaksawling
p s bordland sawling
p s Rossith
p s drone
p s petconnochye
p s Cleische
s p westpart of disert except g erth
p s Taissis
p s Seres kinnynmonth
p Ardros
p Reras
s Cascingray

p s kynnescott
p s lochorschir eistir
p s louchorschir vestir
p s Coudrane & the maw
p glasmonth
p s wemis westir
p s forrate
p s Dalgathie
p s Pynkertoune & pettolly
p s balgonwar
p s lillok

Quo die dominus de Ardre intrauit Robertum Inglis sectatorem curie pro terris suis de Ardre et Juratus [est] ad hujusmodi officium usquedum exoneretur

Quo die georgeus ramsay de clatty intrauit Johannem williamsone sectatorem curie pro terris suis de clattye et Juratus [est] ad hujusmodi officium usquedum exoneretur

Quo die Johannes millar Intratus & Juratus [est] In sectatorem curie pro terris & baronia de glasmonth usquedum exoneretur

Quo die willelmus lindesay de piotstoune constituit willelmum lindesay eius consanguineum procuratorem suum cum potestate substituendi in omnibus suis actionibus et signanter ad prosequendum georgium layng · Et promisit Ratum et gratum ac eciam ad prosequendum villelmum watsone et eius sponsam super spoliacione certarum ouium etc

The quhilk day the actionis of bloid contenit in ane precept direct apone williame Jak andro smyth Robert Richardsone Thomas watsone dauid Richardsone & Robert his sone is continu[i]t to the thrid day of februar in all effect & forme as It now Is with consent of party & thai warnit tharof apud acta & summond be henry Sibbald

The quhilk [1] day [1] the bloid & distroubillance in Innerkething in elikwis Is continu[i]t to the said thrid day of februar & the personis summond personaly in Jugement tharto

Quo [die] continuantur omnes actiones in dicta curia per deputatum ex officio certis ex racionabilibus causis

[1] Added above the line.

animum suum ad hoc mouentibus ad tercium februarii proxime futurum ut nunc extant absque alicuius partis preiudicio et desuper premunicio facta ad gradum pretorii ut moris est

21*v* Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem virum Johannem magistrum lindesay de petcrovy militem vicecomitem de fiffe Dauid Sibbald de lethame & Andream lundin de Stretharlie suos deputatos die tercio Mensis februarii Anno domini Millesimo quingentesimo xvj^to

Nomina assise et Inquisicionis

Petir Creichtoune of the Nauchtane knyt
George dischingtoune of Ardros
Dauid berclay of Cullernye
Johnne hay of fudye
Alexander terwate of that Ilke
Adame lindesay of dowhill
Johnne bikkirtounc of the casche
Alexander lochmalony of that Ilke
Johnne rankelour of that Ilke
Johnne Seitoune of balbirny
Alexander schethome of caskelpy
Dauid tullo of hilcarny
Nicholl skrymgeour of lillok
Walter oliphant of Carnye
Alexander oliphant

scathowy The quhilk day Johnne allerdes the sone of wmquhile dauid allerdes of scathowy clamet the landis of scathouy with thar pertinentis to be haldyne of the barone of dischert waird & releif worth x ℔ in tyme of pece & now xx^tj ℔

Jamisone The quhilk day James Jamisone & [ ][1] burnete thar handis wphaldyne ar becumin souerte to the schiref ilkeane for hyme self his hand & gude for the wnlaw of the distroubillance & bloidwyte movete betuix thame quhilk of thame that wes fundin in defalt be the arbitratouris

Innerkething The quhilk day Johnne henrisone dauid donald Thomas harvy & Johnne thomsone in Innerkething oftymes callit

[1] Blank in manuscript.

& comperyt nocht as thai that wer lachfully summond of before for distrowbillance & bloid committit betuix thame/& summond be Johnne harlaw war adiugeit in amerciamentis of court & dome gevyne tharupone amerciantur

The quhilk day the actione & cause movete be dauid balfour of lalethine aganis Jonete Ramsay the Spous of wmquhile george balfour & hir barnis contenit in ane summondis tharupone Is with consent of party continu[i]t in effect & forme as It now is to the xj day of merche nixt to cum in hope of concord but preiudice of party & the partiis & thar witnes summond & warnit tharto apud acta ramsay

The quhilk day the actioune & cause movete be the said Jonete Ramsay & hir barnis agane dauid balfour foirsaid is in elikewis continu[i]t to the saide xj day of merche & the partiis & witnes warnit tharof & summound apud acta balfour

Quo die Adam lindesay de dowhill Intrauit Johannem malgask seniorem sectatorem curie pro terris suis de crambeth qui Juramentum corporale prestitit ad deseruiendum in hujusmodi officio usquedum exoneretur Secta Crambeth

Qui Jurati dicunt quod quondam Andreas anstrothir de eodem pater Johannis anstrothir latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem et fidem Supremi domini nostri Regis de uniuersis et singulis terris de anstrothir cum suis pertinenciis Jacentibus infra vicecomitatum de fiffe Et quod predictus Johannes presencium lator est legitimus et propinquior heres eiusdem quondam andree patris sui de predictis terris cum pertinenciis Et quod est legitime etatis Et quod prescripte terre de anstrothir cum suis pertinenciis valent nunc per annum ducentis marcis monete currentis scocie Et tempore pacis valuerunt quadragenta libris Et quod tenentur in capite de supremo domino nostro Rege per seruicium warde et releuii Et quod nunc existunt in manibus sue serenitatis Racione warde per decessum dicti quondam Andree sui patris ob non etatem heredis legitimi 22*r*

Jus suum hactenus minime prosequi valentis ad spacium duorum annorum elapsorum aut eo circa In quorum et etc

22*v* Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per dauid gregour vicecomitem deputatum de fiffe die undecimo Mensis marcii Anno domini Millesimo quingentesimo decimosexto sectis vocatis etc

lawborgh ad Iter The quhilk day Jhone claphane of claslogye become souerte for Jhone spens of lathelland to entir to the Justice aire of fyffe nixt to cum the thrid day of the samyn to underly the law for the crymis allegiit committit be hyme upone Jhone browne in sanctandrois as is contenit in the kyngis lettres producit be the said Jhone and under the panis contenit in the samyn

plegium Juris The quhilk day Jhone claphane forsaid become souerte & lawbroch for the said Jhone of spens as gentil man landit that Johne browne forsaid his wyff barnis and seruandis sal be harmeles and skaithles of hyme and all that he may let eftir the forme and tenour of the said lettres and under the panis contenit in the samyn

plegium Juris The quhilk day Johne spens of lathelland become souerte [1] and lawbroch for Alexander spens and thomas spens his sonnis dauid huntair James dauidsone Jhone dauidsoune [2] and alexander dougles that the said Johnne browne his wyf bairnis and seruandis sal be harmeles and skaithles of thame or ony of thame and al that tha ma lat eftir the forme of [*and* ?] tenour of the said lettres and under the panis contenit in the samyn presentibus Willelmo lindesay de piotstoune Thoma barclay de rynd dauid grundistoune de kingask dauid grundistoune de glaslye Alexandro grundistoune henrico sibbald magistro Thoma wemis et dauid gregour notario

curatores petcorthie The quhilk day gelis strang and agnes strang sistaris of fre wil inconstranit nemmit and chesit curatouris to thame

[1] *for* deleted here.

[2] *Johne* deleted here.

in iugement ge[o]rge strang of balcasky dauid sibbald of lathene dauid grundistoune of gleslye and williame baxter of the quiltis and promittit to hald ferme and stable quhat thai do as the law requiris

browne The quhilk day Jhone browne in sanctandrois producit and schew ane chartir and sesing of thre sextene partis of the landis of lathelland maid to hyme be Jhone spens of lathelland the quhilk the said Jhone spens personaly in iugement ratifiit and appreuit the samyn and tuke to preif the assedacioune tharof maid to hyme be Johne brone at the nixt court

layng The quhilk day the actioune and cause movit and depending betuix Williame lindesay of piotstone & george layng burges of couper was with consent of party continuit to the last day of merche forsaid in all affect and forme as it now is but preiudiis of perty and alexander robertstoune and thomas newtoune souerte for his intraes as of befor

balfour & ramsay The quhilk day the actionis and causis movit betuix dauid balfour of lalethine and his collegis on ane part and Jonet ramsay the spous of umquhile george balfour in lalethine on that uthir part lyk as at lenth is contenit in thar summondis fulminat ilkane aganis utheris ar with consent of baith the pertiis under hope of concord continuit to the said last day of merche but preiudice of party and thay warnit tharof apud acta

23r The quhilk day In the actioune & cause movete be Johnne broune in sanctandrois aganis Johnne Spens of lethalland tueching the allegiit distroubilling of hyme in his landis of lathalland pertenyng to hyme be resone of infeftment made til hyme of the samyn be the said Jhone of spens with chartir and sesing producit and rede in iugement The quhilk infeftment chartir and sesing the said Jhone spens grantit & ratifiit & appreuit the samyn and denyit the wrangwis occupacioune and distrobuling of tharintil allegeand that he had the said landis and pertinent tharof in tak and assedacioune of the said Johne broune

and askit ane terme to preve the samyn to the quhilk probacioune the iuge assignit the last day of the said moneth of merche and with consent of party tuk and Resauit certane witnes producit be the said Johnne broune quhilk war suorne & admittit be the party & to be closit to the nixt court

Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem virum Johannem Magistrum Lindesay de petcrovy militem [vicecomitem de fiffe] Thomam forester de Strethanry et Dauid Sibbald de Lethame ac andream mathiesone eius deputatos die ultimo Mensis marcii Anno domini Millesimo quingentesimo decimo-septimo

Nomina assise et Inquisicionis

Andrew murray of kippo kny[t]
George dishingtoun of ardros
Johne wardelaw of torre
Andrew Seitoune of perbroth
Dauid barclay of cullarny
Williame monypenny of pet-moly
Thomas lumisdel [1] of condolen
Johne claphene of claslogye
Dauid barclay of touch
Johne hay of fudye
Alexander louchmalony of that ilk
Johne Ramkelour of that ilk
Dauid tullo of hilkarnye

Quo die Andreas Mathiesone creatus Juratus et constitutus [est] in vicecomitem deputatum de fiff usquedum exoneretur

Qui Jurati Dicunt quod quondam Johannes balcanquoll de eodem pater alexandri ballincankol latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem et fidem supremi domini nostri regis de uniuersis et singulis terris de ballincankoll carmore et carryngheane cum molendino earundem et suis pertinenciis Jacentibus infra vicecomitatum de fyffe Et quod dictus Alexander pre-

[1] So the manuscript.

sencium lator est legitimus et propinquior heres eiusdem quondam Johannis sui patris de uniuersis et singulis predictis terris et molendino earundem cum suis pertinenciis Et quod est legitime etatis Et quod predicte terre cum molendino et suis pertinenciis valent nunc per annum quinquaginta marcis Et quod valuerunt tempore pacis tribus li Et quod tenentur in capite de supremo domino nostro rege per seruicium warde & releuii Et quod nunc existunt in manibus sue serenitatis tanquam domini superioris earundem racione warde per decessum dicti quondam Johannis ob nonetatem heredis legitimi Jus suum hactenus minime prosequi valentis ad spacium nonemdecim annorum aut eocirca In quorum etc

23*v*

betoune

Qui Jurati Dicunt quod quondam Dauid betoune de creigh pater Johannis betoune Latoris presencium obiit ultimo vestitus & sasitus ut de feodo ad pacem & fidem Supremi domini nostri regis de uniuersis et singulis terris de creich cum pertinenciis Jacentibus infra vicecomitatum de fiff Et quod predictus [1] Johannes presencium lator est legitimus et propinquior heres eiusdem quondam dauid sui patris de predictis terris cum pertinenciis Et quod super ipsius legitima etate per literas regias dispensatus est Et quod predicte terre cum pertinenciis valent nunc per annum vigenti libris monete currentis Scocie Et quod valuerunt tempore pacis quatuor libris Et quod tenentur in capite de supremo domino nostro rege per seruicium warde et releuii Et quod nunc existunt in manibus sue Serenitatis tanquam domini superioris earundem racione warde per decessum dicti quondam dauid betoune ob non etatem heredis legitimi Jus suum [2] hactenus minime prosequi valentis ad spacium quatuordecim annorum elepsorum aut eocirca In quorum etc

balfour & ramsay

The quhilk day the actionis and causis movit & depending betuix dauid balfour of lalethine & his collegis on ane part & Jonet ramsay the spous of umquhile george balfour

[1] *willelmus* deleted here.

[2] The manuscript has *sim.*

in lalethine hir barnis & collegis on that wthir part lyke as is contenit in thar preceptis of summondis ilk ane aganis uthiris ar with consent of party continuit in hope of concord to the hed schiref court of fyff nixt eftir pasche as thai now ar but preiudice of party & thai warnit tharof apud acta

broune

The quhilk day the actioune & cause persewit be Johne broune in sanctandrois aganis Johne spens of lathalland twiching the landis of lathalland pertenyng to the said Johne browne & clamit be the said Johne spens in assedacioun of hym the said Johne spens has referrit the said assedacione to the ath of the said Johne browne precise

The quhilk day Johne betoune of balfour personaly in iugement protestit that the dewseruing of Alexander balcancoll his breif of inquest upon the clame of the landis of balcancol carmore & carringzeane with the mylne of the samyn & pertenens suld turne hyme nor his spous to na preiudice because the waird of the samyn pertenit to thame

The quhilk day Dauid stewart of Rossyth protestit that because he was than present to serue the breuis of inquest pertenyng to James lundy of[1] balgony lyke as he was commandit be the kyngis lettres that it suld turne hyme to na preiudice howbeit he comperit nocht quhen he war summond agayne to that effect

24*r*

The quhilk day Dauid Somerwale of plane protestit siclike agane his summoundis wpone the dewseruing of the saide brefe sayand he hed seruit

The quhilk day thomas newtoune become souerte to the schirreff for george layng to entir hyme befor the schirreffe or his deputis in the said heid court with the xix scheip clamit be williame lindesay under the payn of xx li

The quhilk day Alexander narne of sandfurde protestit

[1] *of* repeated in the text.

that the taxt that the schirreff compellit hyme to pay be the kingis lettres suld turne hyme nor his heretage to na preiudice nor thirldome to the barony of nauchtane bot that he gave It to the king at his command

The quhilk day thomas hay of sandfurde protestit that the taxt that the schirreff compellit hyme to pay be the kingis lettres suld turne hyme nor his heritage to na preiudice nor thirldome to the barony of nauchtane bot that he gave It to the king at his command

Qui jurati dicunt quod Johannes balfour patrevus Isobelle balfour filie & heredis quondam dauid balfour de caraldstoune est propinquior agnatus id est consanguineus ex parte patris Isobelle balfour filie & heredi dicti quondam dauid balfour de caraldstoune Et quod ille propinquior excessit [1] etatem viginti quinque annorum Et quod est sue rei prouidus et potens cauere idonie de administracione rei aliene Et quod est in mediate successurus ipsi Isobelle Si ipsam contigerit in fata decedere Et quod Joneta stewart avia dicte Isobelle ex parte matris sue tunc esset ydonior apud quem usque ad legitimam etatem posset & deberet ipsa Isobella educari/ [2]etc tutor legitimus Reperitur [2]

The quhilk day Dauid Stewarte of Rossith Dauid Somerwale of plane Johnne Spens of lethalland Johnne rankelour of that Ilke Alexander lochmalony of that Ilke Williame cokburne of the Newtoune Dauid tullo of hilcarny war summound personaly in Jugement be henry Sibbald mare of command of the schireff to compere personaly before hyme or his deputis ane or ma in the hede schireff courte of fiff nixte eftir pasche to be haldin at Couper the xxj day of aprile nixt to cum to deliuer wpone the poyntis of the brefe of inquest purchest be James lundy of balgony as thai that war suorne tharto eftir the tenour of the kingis lettres tharupone direct & wnder the panis contenit in the samyn And schir andrew murray of baluard knyt

[1] The manuscript has *excescit*.
[2] These last four words added later and in a different hand.

warnit personaly in Jugement to compere at the saidis day & place for his intraes giff he ony has in the said mater

24*v* ultimo marcii

The quhilk day the publicacioune of the witnes Resauit in the actioune betuix Johnne broune Citinere of Sanctandrois & Johnne Spens of lethalland wer be the schiref with consent of party continuit to the hede schiref court nixt eftir pasche because of the resauing of the deposicione of the said Johnne broune in the mater quhilk was ordanit to be resauit be Dauid gregor clerk & notar

Thomsone Qui Rescripti Jurati dicunt quod Willelmus Thomsone Patruus Alexandri Thomsone filii quondam Andree Thomsone est propinquior Agnatus Id est consanguineus ex parte patris eidem alexandro filio et heredi quondam dicti andree Thomsone de newtoune falkland Et quod Ille propinquior excessit etatem xxv annorum Et quod est sue rei prouidus et potens cauere Idonie de administracione Rei aliene Et quod [1] non [1] est immediate successurus Ipsi Alexandro Si Ipsum alexandrum [2] contigerit [2] infata decedere [3] quia habet duas sorores ex eisdem patre & matre genitas & procreatas [3] Sed si quis ex parte matris dicti Alexandri esset ydonior Apud quem usque ad legitimam etatem posset et deberet ipse alexander educari penitus Ignorant Sed iuxta tenorem acti parliamenti super tutela facti prefatus Willelmus tutor legitimus predicti Alexandri esse Reperitur In quorum etc

Qui Jurati dicunt quod Johannes balfour patruus willelmi balfour filii et heredis quondam thome balfour de kingorne latoris presencium est propinquior agnatus id est consanguineus ex parte patris willelmo balfour predicto Et quod ille propinquior excessit etatem viginti quinque annorum Et quod est sue rei prouidus et potens cauere ydonie [4] de administracione rei aliene Et quod non est

[1] Added above the line.
[2] Added in margin in place of *contingerit* which is deleted in the text.
[3] Added in margin.
[4] The manuscript has *ydoniee*.

immediate successurus ipsi willelmo si ipsum willelmum contigerit in fata decedere quia Idem willelmus habet sororem de eisdem patre & matre genitam et procreatam sibique successuram virtute tamen acti parliamenti super tutela confecti predictus Johannes balfour tutor legitimus prefati willelmi esse reperitur In quorum etc

CURIA Capitalis Vicecomitatus de fiffe Tenta In pretorio burgi de cupro per Nobilem dominum Patricium dominum lindesay de biris et Johannem Magistrum lindesay de petcrowy militem vicecomites de fiffe Thomam forestar dauid Sibbald de lethame Georgeum strang de balcasky et Andream lundin de strecharlye eorum deputatos et eorum quemlibet coniunctim et diuisim die xxj° mensis aprilis anno domini millesimo quingentesimo decimoseptimo Sectis vocatis curia affirmata etc 25r

NOMINA ABSENCIUM

s p Sauling
s p blaksauling
s p bordland sauling
s p Petconnoquhy
s p Cleische
s p kynescot
s p lochorschir estir
s p Coudrane & maw
p Glasmonth
s p Wemis estir
s p disert porcionaris except erth
s p disart sinclare
s p Tayssis
s p Seres
p reraes
s kelle
Cascingra
Abircrumby
s p Cullessy
s p Crowy porcionaris
p Foret
s p petcullo
s p Nauchtane kynard
s hilcarny teruat
s p dalgathie lord saultone
s lathalland
s p grange
s p balgonware
s p balmonth
s p westir touch
s Estir touch & bogy
p maristoune
s p lumbany porcionaris except cullerny
s p Sauchop
s p fliskmillane balmowto
s p barony of Innerkething
s p Casche
kilmaroune

Nomina assise & Inquisicionis

Dauid stewart of rossith
Dauid berclay of cullerny
George dischingtone of ardros
Dauid myrtone of cammo
Alexander gourlay of kyncrag
Williame monepeny of petmoly
Johne lumisdene of ardre
Thomas abirbrumby of that Ilke
Johne claphene of claslogy
Thomas berclay of rynd
Johne hay of fudy
Walter herriot of burnturk
Alexander auchmowty of that Ilke
Dauid tullo of hilcarny
Dauid berclay of touch
Alexander lochmalony of that Ilk
Alexander Schethum of caskelpy

Secta

Quo die Willelmus millare intratus receptus et Juratus [est] in sectatorem Curie ut moris est per Alexandrum gourlay de kincrag pro terris suis de eodem

Quo die Magister Alexander Seitone producit ane testament in Jugement maid be wmquhile Dauid balfour of caraldstoune the spous of margarete dudingstone quhilk bure in effect that the said wmquhile Dauid hir spous constitut & maid hir tutour testamentar to his dochtir & air & in the name [1] of the said margaret protestit that the seruyng of Johne balfour the brother of the said wmquhill Dauid hir spous tutour of law of befor suld have na strenth nor turne hir to preiudice

25*v* Qui Jurati dicunt quod quondam Johannes patersone pater walteri patersone latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem et fidem supremi domini nostri regis de tota & integra dimedietate orientali parte terrarum de dunmor cum pertinenciis Jacentium infra viceconitatum de ſiffe Et quod predictus walterus presencium lator est legitimus et propinquior heres eiusdem quondam Johannis sui patris de predicta dimedietate orientali parte terrarum cum pertinenciis Et quod est legitime etatis Et quod predicte terre cum pertinenciis nunc valent per annum xiiij libris monete currentis scocie

[1] The manuscript has *mane*.

duabus Celdris auenarum et xxiiij caponibus prout latius in feofamento eiusdem continetur Et quod valuerunt tempore pacis x ℔ Et quod tenentur in capite de supremo domino nostro rege per seruicium feodifirme soluendo annuatim xiiij ℔ duas Celdras auenarum cum xxiiij caponibus ut supra Et quod nunc existunt in manibus supremi domini nostri regis tanquam domini superioris earundem iuste per seipsum per decessum dicti quondam Johannis ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium quatuor mensium elapsorum aut eocirca In quorum etc

Quo die Willelmus monepenny de petmoly intrauit Thomam Mynmyne Sectatorem curie pro terris suis de babot cum pertinenciis qui Juramentum corporale prestitit de fideli administracione in hujusmodi officio usquedum exoneretur Secta

Quo die Johannes forret de eodem intrauit willelmum lowdone sectatorem curie pro terris suis de forret cum pertinenciis qui Juramentum corporale prestitit de fideli administracione in hujusmodi officio usquedum exoneretur Secta

The quhilk day charlis denestone [1] fand [1] Adam lindesay of dowhill souerte & lauborcht to the schiref that Johne hwtoune suld be harmeles and scaithles of hyme and all that he may let wtherwais thane law will plegium iuris

The quhilk day Johne maister lindesay schiref foirsaid grantit in Jugement that he had resauit the kingis lettres in the secund forme chargeing hyme to put the first lettres direct to hyme & presentit be Johne drummond in the actioune betuix hyme & elizabeth masone to dew execucioune

The quhilk day the deposicione of Johnne broune Citiner of Sanctandrois takin be Dauid gregor of command of the schiref in the actione & cause depending betuix the said Johne brone & Johne spens of lathelland tueching the assedacioune of tua sextene partis of the landis of

[1] Added above the line ; an ampersand in the text has not been deleted.

lethalland clamit be the said Johne spens to be had of the said Johne broune wes publist in presens of the said Johne spens & master thomas wemis procuratour for the said Johne broune & the penult day of aprile nixt followand assignit be the schiref to the partiis to her the decrete Judiciale gewin in the actioune & the partiis warnit tharof Apud acta

26r
lundy

The quhilk day tueching the dew seruying of ane breif of Inquest of our souerane lord the kingis chapell Impetrat be James lundin of balgony apone the clame of the landis of lochtoune & wilkestoune Andrew murray of kippo knyt one ane parte & the said James lundin of the tothir parte beand personaly present the said Andrew murray knyt & his prelocutour michael andersone allegiit that certane baronis & frehaldaris wer chosin and suorne wpone inquest for the dew seruyng of the said breuis in ane court befoir my lord lindesay schiref of fiffe of befoir and nocht thai personis quhilkis wer thane red & exprimit And thane at the instance of party the schireffis foirsaid gert cast wp the said inquest quhilk wes chosin & suorne in the schiref court haldin the xxvj day of aprile the ȝeir of god etc vc & xiiij ȝeiris of the quhilkis the names followis that is to say williame Scot of baluery knyt george dischingtone of ardros Johne wairdlaw of torry dauid myrtone of cammo James sandelandis of Crowy dauid Sibbald of lethame Johne scheues of kenbak dauid berclay of cullerny walter herriot of burnturk Alexander lochmalony of that Ilke Alexander sibbald of rankelour Thomas berclay of rynd Alexander schethum of caskelpy charlis ramsay of foxtoune & dauid tullo of hilcarny To the quhilk inquest the partiis foirsaid consentit that thai deliuerit apone the poyntis of the said breif conforme to the kingis lettres producit tharupone And because charlis ramsay of foxtone ane of the said personis wes decessit be vertu & command of the kingis lettres foirsaid the schireffis with consent of party chesit dauid stewart of rossith & gert hyme be suorne in sted of the said charlis wpone the said inquest & gert summond hyme personaly in Jugement

togidder with the saidis george dischingtone Johne wairdlaw dauid myrtone [1] dauid berclay dauid sibbald walter herriot Alexander lochmalony Alexander sibbald Thomas berclay Alexander schethum & dauid tullo to comper befoir the said schireffis or ony of thame or thar deputis ane or ma in the nixt schiref court of fiffe to be haldin at the said burgh of couper the xxvj day of Maii nixt tocum in the hour of cause to deliuer apone the poyntis of the said breif eftir the forme & tenour of the kingis lettres foirsaid Ilke persone wnder the pane of x ℔i and summond the partiis in elikewis for thar intraes personaly apud acta to the foirsaid day

CURIA vicecomitatus de fiffe Tenta In pretorio burgi de cupro per Nobilem dominum Patricium dominum lindesay de biris et Johannem magistrum lindesay de petcrowy militem vicecomites de fiffe die penultimo mensis aprilis anno domini millesimo quingentesimo decimo [2] vij^{o} [2] Sectis vocatis curia affirmata etc 26*v*

The quhilk day in the actioune & cause persewit be charlis denestone aganis Johne hwtone tueching the allegiit wranguis awaytaking & detencioune fra hyme furth of his tak & maling but ordour or officiar of ane kow [ȝow ?] the price x s̃ & viij hoggis [3] the price of the pece xx d̃ with certane cornis furth of his berne & sawing of his ground like as is contenit in ane borgh fundin in the handis of Alexander lindesay officiar be the said charlis tharupone the partiis foirsaid beand personaly present & lachfullie summond the said Johne hwtone denyit the said wrang & the said charlis producit certane witnes quhilkis wer summond tharto resauit & suorne be the quhilkis it wes lachfullie preuit that the said Johne hwtone had wranguislie & aganis the law takin fra the said charlis the said ȝoung ȝow [4] price x s̃ & viij hoggis price of the pece xx d̃ And denestoune

[1] *James sa[ndelandis]* deleted here.
[2] Added above the line.
[3] Young sheep which have not as yet been sheared.
[4] Ewe.

tharfor wes ordanit be decret of court to content deliuer & pay to the said charlis the said [ȝow][1] & viij hoggis als gud as quhen thai wer takin or the awaile & price foirsaid within the terme of law & dome gewin tharupone one [*and*?] the said Johne hwtone amerciit for the said wrang

broune

The quhilk day in the actione & cause persewit be Johne broune Citiner of sanctandrois & master Thomas wemis prelocutour & procuratour for hyme aganis Johne spens of lethalland tucching the wranguis occupacione laboring & manuring of tua sextene partis of the landis of lethalland pertenyng to the said Johne brone in heretaige the malis proffittis fermis & dewiteis of the samyn and of ane Coyle heucht in the said landis the dounecasting & distructione of certane houssis contenit in ane summondis tharupone the partiis foirsaid being personaly present the said Johne spens allegiit that the said Johne broune had sett to hyme the said landis in tak quhilk he referrit to the said Johne bronis aitht quhilk he be his greit aith suorne deponit that he set neuir the said landis to the said Johne spens and the said Johne brone producit certane witnes to preif the quantite of the awaile & proffit of the said landis be the quhilkis it wes lachfullie preuit that the said Johne spens had occupiit wranguislie the foirsaid tua sextene partis of the landis of lethalland pertenand to the said Johne broune in heretaige be the space of four ȝeiris bigane but tak or assedacioune And that the awaile & proffit of the first tua ȝeris extendit Ilke ȝeir of the girs & pasturing to the sowme of four merkis of the quhilk tua ȝeiris the said Johne brone tuke the proffit of the cornis And that the awaile & proffit of the last tua ȝeiris of the quhilkis the said Johne spens had the proffit baith of girs & cornis extendit ȝeirlye
27*r* To the sowme of ten merkis And als that the said Johnne spens had castin downe & distroyit ane house of the said Johne bronis of the quhilk the scaith wes preuit extendit to tua merkis the quhilkis awailis & proffittis that the

[1] Omitted in the manuscript.

said Johne brone wantit throught the wranguis occupacione of the said landis be the said Johne spens and distructioune of the said houssis extendis in the haile to the sowme of tuenty pundis The quhilk sowme of xx ℔ for the cause foirsaid the Jugis has be decret of Court ordanit & decernit the said Johne spens to content & pay to the said Johne broune within the terme of law and to decist & cese fra ony occupacione tharof or intrometting tharwith in tyme cuming to be Josit & broukit be the said Johne brone & his airis heretablie eftir the forme & tenour of his infeftment tharof be the said Johne browne [1] producit and schewin in Jugement & ratifiit & appreuit be the said Johne spens & preceptis decernit to be direct tharupone to poynd & distrenzhe geif neid be

The quhilk day the schireff foirsaid chargeit & summond charlis denestone to comper befor hyme or his deputis ane or ma in the next schiref court to ansuere at the Instance of Johnne hutoune wpone the clame of certane scheip & othir gere to be persewit apone hyme the said day viz xxvj maii denestone

Curia vicecomitatus de fiffe Tenta in pretorio burgi de Cupro per Nobilem virum Johannem magistrum lindesay de petcrowy militem vicecomitem de fiffe die xvj^to^ mensis maii anno domini m^o^ quingentesimo sextodecimo [2] Sectis vocatis curia affirmata etc xvij^o^

The quhilk day the schiref foirsaid gert call Johne claphene of claslogy to hir his landis apprisit for the relewing of Alexander teruat of that Ilke at the handis of dauid leirmonth of clatto for the singill & double awaile of his mariage like as at mar lenth is contenit in our souerane lordis lettres tharupone & eftir the tenour of the samyn the partiis foirsaid beand personaly present claslogy

[1] Originally *Johne spens*, then *Johne* deleted, and *browne* added above the line, leaving in result 'be the said browne spens'!

[2] This should be *septimodecimo*. There appears to have been an attempt on the part of the scribe to alter the *x* to a *p*, and he has inserted the correct year in the margin.

being lachfullie summond tharto of befoir has consentit that the said actione be continuit in forme & effect as it now is to the xxvj day of maii Instant in hope of concord but preiudice of party to the quhilk day the schiref has continuit the said actione & apprising with consent of party And thai warnit tharof apud Acta

27*v* Curia vicecomitatus de fiffe Tenta in pretorio burgi de Cupro per dauid Sibbald de lethame & Thomam grundistone vicecomites deputatos de fiffe die xxvj mensis Maii anno domini m° quin° xvij° Sectis vocatis curia affirmata etc

plegium Quo die willelmus scot in drumberrow deuenit plegium vicecomiti per manum et bona sua quod Anabella lame vidua erit indempnes de ipso et de omnibus quos Impedire poterit prout lex voluerit sub pena Juris presentibus Ibidem dauid grundistone de glaslie Thoma[1] ballingal de riggis Alexandro lochmalony Thoma oliphant & Johanne squyar

protestacio The quhilk day charlis denestone protestit that senc he comperit at the instance of Johne hwtone & nocht persewit be ony persone nore na precept producit nore red in Jugement that tharfor he suld nocht ansuere till he wer lachfullie summond & for his expensis

plegium The quhilk day etc willelmus scot deuenit plegium vicecomiti per manum et bona sua quod robertus Scot erit indempnes de ipso et de omnibus aliis quos Impedire poterit prout lex voluerit sub pena Juris

continuatur The quhilk day the Summoundis & actioune betuix the lard of Carnebye & the larde of gordonis hall contenit in the precepte tharapone was be the Juge of his office & consent of party for debilite of courte continuit to the nixt courte that is to say the xviij day of the[2] moneth of Junii nixt tocum but preiudice of party and thai warnit tharof apud acta

[1] The manuscript has *Thomas*.

[2] *said* deleted here.

The quhilk day the actioune & cause betuix charlis denystoune & Johnne hutoune was be the Juge continuit of his office for debilite of courte to the said xviij day continuatur

The quhilk day williame Scott was be henry Sibbald mare be command of the Juge in Jugement personaly summound & chargeit to compere at the nixt courte the said xviij day of Junii in the [1] tolbuth of couper to ansuere at the Instance of Roberte Scott at the milne of Stramegloch eftir the forme of ane precepte summonicio

The quhilk day Alexander orrok of Selybawbey was ofttimes callit & comperit nocht to ansuere at the Instance of Thomas grundistoune eftir the forme of ane precepte of summoundis & tharfor was amerciit in the wnlaw of Courte & dome gevyn tharupone amerciatur

The quhilk day henry sibbald procuratour for James lundy of balgony in Jugement Renuncit the assise chosin of before wpone the seruing of his breuis & al proces past tharupone renunciacio

The quhilk day the apprising of the landis of claslogy for the Relewing of alexander terwat of that Ilk at the handis of dauid lermonth eftir the forme of the kingis lettres was be the Juge of his office continu[i]t with consent of party to the said nixt schiref cowrte 28*r* continuatur

The quhilk day Dauid Scott the spous of Elizabeth lundy lady of westir fernye protestyt in hir name that quhate war done in this court be the schireffis of fiffe or thar deputis in the actioune perseuit aganis hir be hew farny tutour to Andrew farny the soune of wmquhile williame farny of that Ilk suld turne hir to na preiudice & for Remede of law tyme & place neidfull protestacio

hew farnye

The quhilk day In the actioune & cause perseuit be hew farny tutour to Andrew farnye of that Ilke aire to farnye

[1] *said* deleted here.

wmquhile Williame farny of that Ilk aganis Elizabeth lundy the relict of the said wmquhile Williame tueching the wranguis withhalding fra hyme of the plaice & landis of Nuthill pertening to the said aire in fre blanscheferme & wranguis wptaking of the malis & proffittis tharof of termes bipast as at mare lenth is contenit in our Souerane lordis lettres direct to the schireff of fiff & his deputis & preceptis tharupone & presentit [1] in Jugement the partiis foirsaid being lauchfully summond to this actioune the said hew farny comperit personaly And dauid Scott the Spous of the said Elizabeth comperand for hir The said hew farny producit & schew our Souerane lordis lettres of tutory wnder testimoniele of the grite Sele quhilk proportit that the said hew was fundin lachfull tutour to the said andrew & seruit tharof lachfully be breues & Retourit agane to the chapell And tharfor the Jugis foirsaid being avisit with thar assessouris fand & deliuerit that because the said hew farny was seruit lauchfull tutour to the foirsaid andrew that tharfor he suld be thankfully ansuerit & obeyit in all thingis concerning his office of tutory foirsaid eftir the forme & tenour of the saidis our souerane lordis lettres of tutory maid to hyme tharapone & producit scheuyn & Red in Jugement & decernit preceptis to be direct tharapone to mak hyme be enterit to the said place & profuttis tharof & to be assithit & payit of the malis fermes & deuiteis tharoff according to Justice

broune

The quhilk day in the actioune & cause movete be Johnne broune Citiner of sanctandrois aganis Johnne Spens of lethalland tueching the wranguis occupacione of ane pece of land callit the dene with ane toft tharupone of the quhilk iij sextenepartis pertenis to hyme as Is allegiit like as Is contenit in the summondis tharapone the said Johnne spens personaly comperand togidder with alexander dowglace denyit the wrang & the Juge assignit to the party the xviij [2]day[2] of Junii nixt to cum for probacione of the samyn And summond the saidis Johnne Spens & alexander dowglace in Jugement apud acta to compere

[1] & deleted here.

[2] Added above the line.

the said day to here the witnes tharapone to be producit suorne & admittyt

CURIA Vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Thomam grundistone & dauid grundistone de k[ingask] vicecomites deputatos de fiffe die xviij° mensis Junii Anno domini millesimo quingentesimo Septuodecimo sectis vocatis Curia affirmata etc 28v

NOMINA ASSISE

Johnne Spens of lethalland	Dauid moncor
Thomas oliphant	Dauid Jamisone
George Erth of Smythtoune	Thomas ferrye
Johnne Rankelour of that Ilke	Robert Scott
Alane Jamisone	Robert henrisone
Alexander wemis	

The quhilk day Johnne mailuile of Carnebe was oft- amerciatur
times callit & comperit nocht as he that was lachfully summond of before to ansuere at the Instance of Alexander borthuik of gordonishall & at the Instance of the schiref in the kingis name eftir the tenour of ane precepte was adiugeit in amerciament of courte & dome gevyn tharapone

The quhilk day Alexander borthweik of gordonishall amerciatur
foirsaid in elikwis ofttymes callut was amerciit for non-comperance & dome gevin tharapone

The quhilk day Robert dowgall & Johnne Row [ ][1] amerciatur
war ofttimes callit and comperit nocht . . .[2]

The quhilk day williame Scott in drumberrow & Robert compromise
Scott his brother at the Milne of Stram[i]gloch thar handis wphaldine & the grite aith suorne ar compromittit finaly but excepcione or appellacioune in the lard of petlour James allerdes & alexander bannathye as Jugis arbitratouris & amicable compositouris[3] wpone al clames &

[1] Blank in manuscript. [2] Entry incomplete.

[3] Transcribed as *compositouris* throughout, though the horizontal suspension sign might justify a form *componitouris*. See note 2 on page 18.

debatis being betuix thame before the daite of this act & in Speciale wpone the poyntis contenit in ane precepte Rasyt be the said Robert And annabell lame Richt sua quhilkis sal convene in Strethmigloch one munnunday nixt tocum [1] in hora x ante meredicm [1] & tak the materis one thame & deliuer tharintil treuly within xv dayis thareftir in uberiori forma

denestoune & hutoune

The quhilk day charlis denestoune producit my lord of drumfermlingis commissioune & be wertu of the samyn desirit to be Replegiat in the actione perseuit aganis hyme be Johnne hutoune the quhilk the schiref deputis foirsaid continu[i]t of thar office for debilite of courte to the xiiij day of Julii nixt tocum but preiudice of party & gert summond the said charles in Jugement to compeire the said xiiij day to heire certane witnes be the said Johnne hutoune producit suorne & admittit in the cause perseuit be hyme & to here & se the actioune & clame preuit be the said Johnne as efferit eftir his allegacione

protestacio

The quhilk day the said charlis denestoune protestit for the priuilege of his commissione & held hyme tharat

29r

The quhilk day in the actioune & cause movete be Thomas Thomsone duelland in the qwilt mylne aganis James Jamisone duncane Jamisone & Johnne Jamisone . . .[2]

plegium Juris

The quhilk day Thomas Thomsone foirsaid become Souerte & lauborgh for dauid Thomsone his brother that the saidis James Jamisone duncane Jamisone & Johnne Jamisone suld be harmeles & scathles of hyme & all that he mycht lett forthir thane law wald wnder the pane of law

plegium Juris

The quhilk day the said dauid Thomsone become souerte & lauborgh for the said thomas thomsone one the samyn wis & to the samyn effect

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[1] Added above the line.

[2] Entry incomplete.

protestacio

The quhilk day Johnne Sandersone protestit for his expensis or he war compellit to ansuere or bere witnes in the cause perseuit be Johnne hutoune

broune

The quhilk day henry Sibbald of command of the said deputis summound personaly in Jugement Johnne Spens of lethalland to compere before the schiref of fiff or his deputis ane or ma in the tolbuth of Couper the xiiij day of Julii foirsaid in the houre of cause to ansuere at the Instance of Johnne broune Citinere of sanctandrois upone the expensis maid be hyme in the pley betuix thame & to heire & se the witnes to be Resauit in ane cause betuix thame be publist & decrete of courte gevyne tharapone eftir the forme of law & alexander dowglace alsua his colleg in the samyn wis

29*v*

Curia Vicecomitatus de fiffe Tenta apud burgum de Cupro per dauid Sibbald de letham et Thomam grundistoune vicecomites deputatos de fiffe xiiij^to^ die Mensis Julii Anno domini m^o^ v^c^ xvij^o^

Nomina assise et Inquisicionis

Johnne Mailuile of Carnebe
Walter heriote of burneturk
William bruce of Erlishall
Eduard bruce of [*Kynnarde*] [1]
Johnne Inglis merschaell
Johnne Inglis tutour of terwate
Thomas berclay of the Rynd
Johnne Spens of lethalland
George Erth of Smethtoune
Johnne Rankelour of that Ilke
Alexander Schethome of caskelpy
Alexander Ramsay of brekmond
Thomas oliphant

terce

The quhilk day margrete dovery the Spous of wmquhile Michale balfour of munquhanny was seruit of ane Resonable terce of all & haile the landis of munquhanny with thar pertinentis of the quhilkis the said wmquhile michale deit westyt & sesyt as of fee within the schirefdome of fiffe & of all & syndry othir landis & annuell Rentis of the

[1] Blank in manuscript. Cf. *A.D.C.* xxvii. f. 221^v^.

quhilk the said wmquhile michale hir spous deit vestite & sesit as of fee within the said schireffdome And Is befallyne the Soune cavill of the samyne in Jugement & preceptis decernit to be direct to beken & Inter hir tharto or hir actournais ane or ma eftir the forme of law & consuetude of the Realme

Cautioun — The quhilk day dauid boswell commissar to my lord Archibischope of Sanctandrois commendatare of dunfermeling with sufficient commissioune Replegiat charlis denestoune attachit at the Instance of Johnne hutoune in ane actione of spoilȝe to the courte of the Regalite of dunfermeling to the feird day of august nixt tocum And schir andrew murray of kippo knyt become souerte & caution to the schireff tharfor as the law Requiryt

Spens — Quo die Johannes Spens de lethalland Judicialiter protestatur pro Remedio & priuilegio Juris contra processum contra Ipsum pro parte Johannis broune Ciuis civitatis sancti andree deductum et specialiter contra testes & decretum die prescripto latum

broune — Quo die Magister thomas wemis procurator nomine Johannis broune predicti peciit Instrumentum super eius decreto Ibidem illo die prelato

Carnebe — Quo die Johannes mailuile de Carnebe publice protestatur pro priuilegio suo penes Alexandrum borthuik de gordonishall & eius famulos et complices

protestacio — Eodem die Eduardus bruce protestatus est pro expensis denestoune priusquam Respondeat

30*r*
citacio — The quhilk day Johnne Spens of Lethalland was summound personaly in Jugement to compeire at the nixt schiref court of fiff to be haldin at Couper the iiij day of august nixt tocum to ansuere at the Instance of Johnne broune foirsaid to heire his expensis taxt maid be hyme in the pleyis betuix thame as the law Requiris

broune — The quhilk day In the actioune & cause Mouete be Johnne broune Citinere of sanctandrois aganis Johnne Spens

of lethalland tueching the alegiit [1] wranguis [1] occupacione be hyme & Alexander dowglace of iij Sextenepartis of ane toft & stede with the landis tharof callyt the Dene be the space of xj ȝeris bigane quhilk thre sextenepartis pertenis to the said Johnne broune as Is allegiit like as at lenth is contenit in the summoundis tharupone the partiis foirsaid being personaly present that is to say the said Johnne Spens be hyme self & the said Johnne broune be the saide master thomas his procuratour thar Richtis Resonis & allegacionis Sene & herd with certane deposiciones of witnes takine & Resauit in the cause publist It was lachfully preuit that the said toftsted & landis of the dene was of the propir landis of lethalland of the quhilkis iij Sextenepartis pertenis to the said Johnne broune & ar wrangusly withhaldyne fra hyme howbeit he is charterit & sesyt of iij Sextenepartis of all & hale the landis of lethalland with thar pertinentis And has bene withhaldine fra hyme be the space of xj ȝeris bigane quhilkis landis of dene & toftsted with the pertinentis gevis of ȝerly maile & profyt iij ƀ of wittale viz ij ƀ bere & a ƀ mele vj cane foulis with tua hukis [2] in hervist quhile the corne be schorne ȝerlye of the quhilkis fermes malis & deuiteis iij Sextene partis pertenis to the said Johnne broune in heretage be chartir & sesing And tharfore the Juge decretis deliueris & decernis the saide Johnne & alexander to content & pay to the said Johnne broune iij Sextenepartis of the saidis fermes cane & deuiteis of the saidis dene landis & stede Sene the tyme that the sesing was gevyne tharof to the said Johnne broune or the availe & price tharof samekle as the samyn extendis to/be the said space within the terme of law viz extending in the said xj ȝeris to xxxiij ƀ victuale/tharof fallis to the said Johnne broune vj ƀ & iij pectis/Item of the cane foulis the thre sextenepartis drauis iiij s̃ iiij đ ½ đ Ilk foule iiij đ/& In [3] day werkis til his parte xxxiij Ilk day werk iiij đ summa x s̃ viij đ/ summa of the haile drauis ij ĥ xvj s̃ iij đ ½ đ

price bolle vj s̃ viij đ.

[1] Repeated in the text, and second entry deleted.

[2] Sickles.

[3] Originally *iij* and *In* superscribed.

30v Curia vicecomitatus de fiffe Tenta in pretorio burgi de cupro per Nobilem virum Johannem magistrum lindesay de petcrowy militem vicecomitem de fiffe et dauid Sibbald de lethame eius deputatum die quarto mensis Augustii anno domini millesimo quingentesimo decimoseptimo sectis vocatis curia affirmata etc

Nomina assise & inquisicionis

Johne mailuile of Carnbe
Williame lindesay of piotstone
Johne Inglis burges of Edinburgh
Alexander teruat of that Ilk
Johne hay of fudy
Johne rankelour of that Ilke
Dauid tullo of hilcarny
Johne spens of lethalland
Alexander lochmalony of that Ilke
Alexander auchmowty of that Ilke
george erth of donfeild
Dauid grundistone of glaslie
Johne setone of balbirny

Qui Jurati dicunt quod quondam dauid allerdes pater Johannis allerdes latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad fidem et pacem supremi domini nostri regis de uniuersis & singulis terris de scathoquhy cum pertinenciis Jacentibus infra baroniam de disert et vicecomitatum de fiffe Et quod predictus Johannes presencium lator est legitimus et propinquior heres eiusdem quondam dauid patris sui de uniuersis et singulis predictis terris cum pertinenciis Et quod est legitime etatis Et quod prescripte terre cum pertinenciis valent nunc per annum viginti libris monete currentis scocie Et quod valuerunt tempore pacis tribus libris Et quod tenentur in capite de [1] barone baronie de disert [2] et nunc de domina sinclare superiore earundem [2] per seruicium warde & releuii Reddendo inde annuatim ad specum sancti Seruani de disert capellano inibi celebranti in pura Elemosina sex solidos et octo denarios monete currentis scocie Et domino superiori earundem heredibus suis et assignatis seruicia debita et consueta viz communem sectam ad curias

[1] *domino* deleted here.

[2] Added in margin.

suas de disert una [cum] wardis et releuiis cum contingerint prout in carta earundem specificatur Et quod nunc existunt in manibus [1] domine sinclare predicte domine coniuncteinfeodationis earundem [1] ratione warde per decessum dicti quondam dauid allerdes ob non etatem heredis legitimi Jus suum hactenus minime prosequi valentis ad spacium trium annorum et nonem mensium elapsorum aut eocirca In QUORUM etc

The quhilk day Johnne Spens of lethalland was summond personaly In Jugement be henrye Sibbald mare at the command of the schiref to Compere at the nixt hede schiref court of fiff to be haldin at couper the vj day of October nixt tocum to ansuere [2] at the instance of Johnne broune Citenere of Sanctandrois to heire the expensis maid in the actione betuix thame taxte as efferit

The quhilk day Johnne Spens of lethalland protistyt that quhat the schireff or his deputis did in the actioune betuix hyme & Johnne broune foirsaid suld turne hyme to na preiudice & for the priuilege & Remede of law tyme & place neidfull 31*r*

Quo die Curia continuatur in omnibus ad xx^{um} augusti instantis per vicecomitem et deputatos

CURIA vicecomitatus de fiffe Tenta Apud burgum de Cupro per Nobilem virum Johannem Magistrum lindesay de petcrovy militem vicecomitem de fiffe dauid grundistoune de kingask et Thomam grundistoune deputatos xx^{o} die mensis Augusti Anno domini Millesimo quingentesimo xvij^{o} [uchtirmukty] [3]

The quhilk day Alexander Mirtoune of Randelstoune was summound personaly in Jugement be henry Sibbald mare of the quarter of Edyne of the command of the

[1] Added in margin, and the words *predicti baronis tanquam domini superioris earundem* deleted.

[2] *ansuere* repeated in the text.

[3] Added later in the margin.

schireffe to compeire in the nixt hede schireffe courte of fiffe before the schireffe or his deputis at couper to be haldine the vj day of octobere nixt tocum In the houre of cause to ansuere At the Instance of Alexander wemys & to heire cognicione be takyne gife the said Alexander myretoune was nocht enterit to the landis of ballas quhil vitsonday evyn last bypast that he mycht nocht lachfully warne the said alexander wemys to Remoive tharfra & devoid the samyn as is contenit in our Souerane lordis lettres direct tharupone & baith the parteis to heire & se the said lettres be put to dew execucione & Justice ministerit wpone the pointis & Articlis contenit tharintil & eftir the tenour of the samyne with Intimacione etc

lyndesay

The quhilk day In the actioune & cause Mowete be Williame lindesay aganis george Erle of Rothes tueching the assedacione & tak of taissis mylne & eiectione of hyme tharfra & furth of the samyn as is contenit in the summondis tharapone the said williame comperand personaly & the said Erle ofttymes callit & comperit nocht the said williame producit & schew ane sufficient assedacione of the said mylne & preuit sufficiently that he was in possessione tharof & had termes to ryn & that ane parte of his gere was castyn out wrangusly & tharfore was decernit to be restoryt kepit and defendit tharin quhil he wes lachfully callyt & ordourly put tharfra

Curia viccecomitatus de fiffe Tenta in pretorio burgi de Cupro per Thomam grundistoune viccecomitem deputatum de fiffe die ultimo mensis Augusti Anno domini m° v^c xvij°

Nomina assise

quit Robert andersone in nevingstoune
quit Andrew murray thar
quit Michale Webstare thar
quit Johnne the Man at the brig of garny
quit James leiche in munsye
filyt Andrew balcomy burges of Couper
quit Johnne moncur of the Month

quit Johnne gibsoune in the fruchis
[1] filyt Thomas gray [2] in the byne
quit Andro hutone at the cruke of dovane
quit Robert broune in drumlochirno
quit Thomas berclay in the byne
quit Thomas Inglis of Ardett
quit James henrysone burges of Couper
quit Dauid Ramsay burges of Couper
quit Andrew fogo burges of Couper
quit Eduard Rauf burges of Couper

The quhilk day Thomas gulene duelland in dalqueich was maid qwit be the said assise of the slauchtir of Johnne schurtows & deliuerit be the mouth of andrew fogo chancellare of the samyne gulene

Quo die Andreas schurtous plegium legalis pro Waltero schurtows quod thomas gulene eryt indempnes de ipso et de omnibus quos impedire poterit ut lex dictauerit sub pena Juris

Eodem die Adame lindesay de dowhill plegium Juris pro Andrea schurtows & willelmo schurtows similiter quod predictus Thomas gulene erit indempnes de ipsis et de omnibus quos Impedire poterint ut lex dictauerit sub pena Juris

Upone the v day of Septembere in the ȝere of god J^{m} v^{c} & xvij ȝeris I Thomas grundistoune schiref depute of fiff at the command of the kingis lettres tuk dauid hay of ardett souerte for dauid Ramsay of culuthie to compere before the kingis Justice the thrid day of the aire of fiff nixt to cum or apone xv dayis warning to wnderly the law for the mutilacione of thomas Inglis the art and parte tharof under the pane of J^{c} ℔ And als lawborgh for hyme that the said thomas suld be harmeles & scatles of hyme & that he mycht lett wnder the pane of J^{c} ℔ siclik as the said lettres proportyt [6*v* slip pasted in]

And als I tuke the said dauid ramsay of culuthie

[1] *quit* deleted and *filyt* added.
[2] *thar* deleted here.

souerte for the said dauid[1] hay eldar in ardett dauid hay his sone 3oungar dauid ramsay sone to wmquhile Norman ramsay schir Williame ramsay his brother Andrew kynloch Ane callyt symme houshald man to the lard Thomas wod to comper befor the said Justice the saidis day & place to wnderly the law for art & parte of the said Mutilacione/And wnder the panis contenit in the said lettres/And als lawborgh for thame & for george erle of Rothaes Thomas balfour of dovene george balfour with the erle Johnne balfour sone to andrew balfour of kirktoune & alexander hay of mortoune that the said thomas suld be harmeles & scathles of thame & al that thay mycht lett eftir the forme & tenour of the kingis lettres & wnder the panis contenit in the samyn witnes present schir dauid Rynd chapellane Andrew gourlay & henry sibbald

31*v* Curia Capitalis vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem virum Johannem Magistrum lindesay de petcrovy militem vicecomitem de fiffe Andream lundy de Stretharlye eius deputatum die vj^to^ mensis octobris Anno domini m^o^ v^c^ xvij^o^ Sectis vocatis & Curia affirmata

Nomina absencium

[*blank*]

Thomsone continuatur — The quhilk day the actioune & cause perseuit be dauid gregore aganis Johnne thomsone in falkland was with consent of party continu[i]t to the last day of Octobere foirsaid

harlaw — The quhilk day Johnne harelaw 3oungare was Interit Soytour for the landis of fordale & lard of the samyn & Suorne tharto And als admittit to the office of mairschipe that Johnne harelaw his fader exercit of before

[1] *ramsay* deleted here.

The quhilk day James lundy of balgony In Jugement Renuncit the assise & inquest chosine & sworne of before wpone the deuseruing of his breues of Inquest Impetrat be hyme of the Kingis chapell & all proces past tharapone of before to this vj day of Octobere foirsaid And protestit that the samyn suld have na place nore effect to mak Impediment or defer the dew seruing of his brevis in ony tyme to cum & for the priuilege of law to persew & Recouer Intraes in the landis that pertenit to wmquhile Andrew lundy of balgony kny[t] his fader of before & that now suld pertene to hyme as aire to his said wmquhile fader in meliori forma lundy

The quhilk day George strang of balcasky become souerte & lauborgh to the schireff foirsaid for Johnne mailuile of Carnebe that Alexander borthweik of gordonis-hall salbe harmeles & scathles of the said Johnne mailuile & all that he mycht lett bot as the law will wnder the pane of law plegium Juris borthuik

The quhilk day Maister Thomas Meldrome of Segy become souerte & lauborgh in elikwis to the said schireff for the said Alexander borthuik that the said Johnne mailuile suld be harmeles & scathles of the said Alexander wthir wayis thane law will & of all that the said alexander mycht lett as Is aboune exprimyt wnder siklike panis plegium Juris Mailuile

The quhilk day the actione & cause movete betuix the saidis Johnne mailuile & Alexander borthuik with consent of party was continu[i]t to the last day of octobere foirsaid continuatur

Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem dominum Patricium dominum lindesay de biris & Johannem Magistrum lindesay de petcruvy militem vicecomites de fiff dauid Sibbald de lethame & Andream lundy de Stretharlye suos deputatos et eorum quemlibet die ultimo Mensis Octobris Anno domini m° quingentesimo xvij° Sectis vocatis Curia affirmata etc 32*r*

[uchtirmukty] [1]

[1] Added later in the margin.

Nomina Inquisicionis et assise

Johnne Wairdelaw of Torrye
George Ramsay of Clattye
Alexander Sibbald of Ramkelour
Alexander tervate of that Ilke
Williame Seitoune of Ramgally
Thomas dudingstoune of Kilduncane
Alexander louchmalony of that Ilke
Johnne Spens of lethalland
George Erth of Smethtoune
Dauid tullo of hilcarnye
Johnne forestar of the Newtoune
Alexander gourlay of southeld
Johnne seytoune of balbirnye
Johnne kynnynmont tutor of craghall
Alexander schethome of Caskelpye

Qui Jurati dicunt quod quondam dauid wemys filius fratris Patricii Wemys latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem et fidem supremi domini nostri regis de uniuersis et singulis terris de pettincrefe galrik & clune cum pertinenciis Jacentibus infra vicecomitatum de fiffe Et quod predictus patricius presencium lator est legitimus et propinquior heres eiusdem quondam dauid filii fratris sui de predictis terris cum pertinenciis Racione tallie Et quod est legitime etatis Et quod predicte terre de pettincrefe galrik & clune cum suis pertinenciis nunc valent per annum quinquagenta lib monete currentis scotie Et quod valuerunt tempore pacis [1] quinque lib Et quod tenentur in Capite de supremo domino nostro Rege per seruicium warde et releuii Et quod nunc existunt in manibus sue serenitatis Racione warde per decessum dicti quondam dauid ob defectum heredis legitimi Jus suum hactenus minime prosequi valentis ad spacium trium annorum aut eocirca In quorum etc [2] Retornata reformatur de mandato domini regis per literas suas patentes . viz . in hac clausula/Racione nonintroitus pro racione warde [2]

Qui Jurati dicunt quod quondam Magister Jacobus

[1] *duabus lī* deleted here.

[2] Added later.

Ramsay de lowis pater henrici Ramsay latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem et fidem Supremi domini nostri Regis de tota et Integra una Octaua parte omnium et singularum terrarum de Ardre et tolre cum pertinenciis Jacentium infra vicecomitatum de fiffe Et quod predictus henricus presencium lator est legittimus & propinquior heres eiusdem quondam Magistri Jacobi sui patris de predicta octaua parte terrarum de ardre et tolre cum pertinenciis Et quod est legitime etatis Et quod prescripte terre etc cum pertinenciis valent nunc per annum iiij^{or} ℔ monete currentis scocie Et tempore pacis valuerunt [1] xx^{tl} ℈ Et quod tenentur [2] In capite de supremo domino nostro rege per seruicium warde et releuii Et quod nunc existunt in manibus sue serenitatis Racione warde per decessum dicti quondam magistri Jacobi ob defectum heredis legitimi Jus suum hactenus minime prosequi valentis ad spacium duorum mensium aut eocirca In quorum etc

Qui Jurati dicunt quod quondam Karolus Ramsay de foxtoune pater [3] francisci Ramsay latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem & fidem Supremi domini nostri Regis de uniuersis et Singulis terris de foxtoune cum pertinenciis Et quod predictus franciscus presencium lator est legittimus et propinquior heres eiusdem quondam Karoli patris sui de predictis terris cum pertineciis Et quod est legitime etatis Et quod predicte terre de f[oxtoune] cum pertinenciis nunc valent per annum x ℔ monete currentis scocie Et quod valuerunt tempore pacis xl ℈ Et quod tenentur in Capite de Supremo domino nostro Rege per seruicium warde et Releuii Et quod nunc existunt in manibus sue celsitudinis racione warde per decessum dicti quondam karoli ob defectum heredis legitimi Jus suum hactenus minime prosequi valentis ad spacium unius anni elapsi aut eocirca In quorum etc 32*v*

[1] The manuscript has *valuit*.
[2] The manuscript has *tenetur*.
[3] *Karoli* deleted here.

continuatur [1] ad Curiam capitalem [1]

The quhilk day the actioune & cause of distroubillance & bloidwyte betuix Johnne mailuile of carnebe one ane parte & Alexander borthueik with thar [2] complicis one the tothir parte contenit in ane summondis tharupone Is with consent of party continuit to the xij [3] day of Januare [4] nixt tocum & the partiis warnit tharof apud acta

Uchtir-mukty

The quhilk day patrik Robertsone in Wchtirmukty Johnne greife thare James gilmour thare Johnne stirk of the hil thare James gilmour thare Alexander stirk thare Johnne beueraige thare James stirk thare Robert stirk thare at the mylne & stevyne gilmour . . .[5]

33*r*

Curia vicecomitatus de fife Tenta in pretorio burgi de Cupro per nobilem dominum Johannem magistrum lyndesay de petcrowy militem vicecomitem de fife Dauid Sibbald de laithame Andream lundy de straitherly & Thomam grundistone eius deputatos et eorum quemlibet coniunctim et diuisim die primo mensis decembris Anno domini m° v^c.o xvij°

continuatur

The quhilk day the actioune & cause movete be Andrew murray of kippo kny^t aganis Jonete Inglis as is contenit at mare lenth in the summoundis tharupone is with consent of party continu[i]t to the hede schiref court nixt eftir 3owile in hope of concord but preiudice of party & the said schir andrew murray one ane parte & schir Williame Inglis vicare of Coupir procuratour for the said Jonete one that wthir parte warnit tharof apud acta

continuatur

The quhilk day the actioune & cause perseuit be schir Williame Scott kny^t aganis Johnne Scrimgeour of the myris maser as is contenit in ane summondis tharapone is with consent of party wnder protestacione of the said Johnne nocht admittand the Juge continu[i]t to the said hede cowrte as it now Is in hoipe of concord & the partiis warnit tharof apud acta

[1] Added later.
[2] So the manuscript.
[3] *first* erased and *xij* written over.
[4] *decembere* erased and *Januare* written over.
[5] Entry incomplete.

The quhilk day the actioune & cause perseuit be frances Ramsay of foxtoune aganis dauid Ramsay his brother is with consent of party continu[i]t to the said hede courte & the partiis warnit tharof apud acta continuatur

The quhilk day the actioune & cause perseuit be Alexander wemys Aganis Alexander Miretoune of Randelstoune is with consent of the said Alexander wemis for hyme self & master thomas meldrome of Segy for the lard of Randelstoune continuit to [the] said hede courte as It now is wnder hoipe of concord continuatur

The quhilk day the actioune & cause perseuit be Jonete dischingtoune the Spous of wmquhile Andrew lundy of balgony knyt aganis James lundy of balgony like as Is contenit in the summondis tharupone is continu[i]t to the said hede courte continuatur

The quhilk day the actioune & cause movet be alane Jamisone aganis dauid Ramsay contenit in the summoundis tharupone Is with consent of party continu[i]t to the said hede courte wnder hope of concord & the partiis warnit tharof apud acta continuatur

Curia Capitalis vicecomitatus de fiffe Tenta in pretorio burgi de Cupro per Nobilem dominum Patricium dominum lindesay de biris vicecomitem de fiffe dauid Sibbald de lethame Andream lundy de Stretharlye Eduardum bruce de [*Kynnarde*] [1] willelmum baxster de qwilt et andream balcomy burgensem dicti burgi suos deputatos die xijo Mensis Januarii Anno domini mo vc xvijo 33*v*

Nomina absencium

S p Sauling
S p bordland Sauling
S p Rossith
S Drone
S p petconnochye
[2] Girsemarstone & kirklandis
S p Creich
[2] Crowy personaris
S p petcullo

[1] Blank in manuscript.
[2] This appears to have a cancellation mark against it.

S p Cleische
S p kynnestwod
p kirknes
S p Coldrane & maw
S p glasmonth
S p wemys eistir
S wemys westir
S p disert personaris except g erth
S Clatty
S Taissis
sandfurd in m[anibus] regis
caraldstone in m[anibus] regis
[1] p Rerais
p kelle
S Ardre
S p the lard of lawis porcionare of Ardre & tolre
S p Cassingra
luquheris bruce in m[anibus] Regis
Mircarny in m[anibus] Regis
S p Dalgathye
S lathalland
S p balgonware
S p Tiry & seyfeild
pettedy in M[anibus] regis
Condolane in manibus Regis
balmonth in manibus regis
Westir touch
S p Eistir touch & bogy
S p Eistir colsye moncrefe
S p Sauchope
Strethore in Manibus Regis

Breue tutorie Eliz. wemis prosecuta per Patricium wemys

Nomina Inquisicionis et assise

Dauid berclay of Culerny
George dischingtoune of ardros
Alexander borthuik of gordonishall
Johnne mailuile of carnebye
George Ramsay of clatty
Walter heriote of burneturk
Alexander Sibbald of Ramkelour
Johnne Spens of lethalland
Alexander terwate of that Ilke
Alexander narne of pursk
Alexander auchmouty of that Ilke
Dauid tullo of hilcarnye
Johnne ramkelour of that Ilke

[1] *S* deleted.

The quhilk day the actione & cause persecuit be annabel abircrumby aganis Walter arnote Johnne dudingstone & James dunbare contenit in ane summondis tharupone Is with consent of party continu[i]t to the secund day of merche nixt to cum continuatur

The quhilk day the actioune & cause mouete be schir andrew murray of baluard knyt aganis Jonete Inglis the Spous of wmquhile Johnne mailuile of carnebe as is contenit in the precepte of summoundis tharupone Is with consent of the said schir andrew/& schir williame Inglis continuit to the nixt schiref court the secund day of merche in hope of concord but preiudice of party 34r continuatur

The quhilk day [ ][1] the spous of Johnne broune citinere of Sanctandrois in the Name of hir said spous constitut procuratouris for hyme in the persute of Johnne spens of lethalland & in al wthir actionis & promittit to hald ferme & stable viz dauid grundistoune of glaslye williame Wod procuracio

The quhilk day master James carmour procuratour to Annabell abircrumby protestyt for hir expensis in the actione persewit be hyme in hir name aganis Johnne dudingstone protestacio

The quhilk day the actioune & cause movet be Jonete dischingtoune the spous of master Thomas meldrome of segy, & the said master thomas for his Intraes be resone of hir aganis James lundy of balgony like as is contenit in the precepte of summoundis tharupone Is with consent of party continu[i]t to the said secund day of merche wnder hoipe of Concord & the parteis warnit tharof apud acta continuatur

The quhilk day James lundy of balgony foirsaid [2] one ane parte [2] & the said master Thomas for hyme self & the said Jonete his spous one that wthir parte be the fathis in thare bodiis thare handis wphaldin ar oblist & suorne in Jugement to abide at wnderly & fulfill the sentence deliuerance decrete consale & ordinance of thir compromise

[1] Blank in manuscript.

[2] Added above the line.

personis wnderwrittine viz for the parte of the said James schir James Kincragy dene of abirdene Johnne mailuile of the Raith kny^{t} Adame lindesay of dowhill Thomas forestar of strethanrye & master martyne balfour or thre of thame And for the parte of the saidis Master thomas & Jonete his spous George dischingtoune of ardros dauid myrtone of cammo Alexander borthuik of gordonishall Master Williame meldrome archidene of dunkeld & Master dauid petcarne archidene of brechine or thre of thame as Jugis arbitratouris & amicable compositouris in all actionis & in speciale contenit in the precepte of summondis tharapone direct & sal convene in sanctandrois the xx^{tl} day of Januare instant in the perroche kirk at ane hour eftir none or tharby & tak the mater one thame & sal deliuer tharintil within xx^{tl} dayis thareftir the saidis Jugis havand pouare to cheis ane od persone in case of discord & to continew as thai think expedient & the parteis suorne to abide at thare deliuerance but Reuocacione excepcione appellacione or suplicacione in uberiori forma speculatoris or of the mast parte of thame

34*v* munquhany

Qui Jurati dicunt quod quondam Michaell balfoure feodatarius de munquhanny pater andree balfoure latoris presencium obiit ultimo vestitus et Sasitus ut de feodo ad pacem et fidem supremi domini nostri Regis de uniuersis et singulis terris [1] de monthquhanny et Strethore cum uno annuo redditu Octo marcarum terrarum de Eistir farny cum suis pertinenciis unitis et incorporatis in meram et liberam baroniam nuncupatam baroniam de monthquhanny Jacentem infra vicecomitatum de fife Et quod predictus Andreas presencium lator est legitimus et propinquior heres eiusdem quondam Michaelis patris sui feodatarii eiusdem baronie de hujusmodi terris et baronia cum Annuo redditu prescripto et suis pertinenciis Et quod est legitime etatis Racione dispensacionis supremi domini nostri Regis desuper habite et Judicialiter ostense Et quod predicte terre et baronia cum annuo Redditu predicto valent nunc

[1] *et baronia* deleted here.

per annum j^{c} ℔ monete currentis scocie Et [quod] valuerunt tempore pacis viij ℔ Et [quod] tenentur in capite de Supremo domino nostro Rege per seruicium warde et releuii Et quod existunt in manibus sue serenitatis racione warde ad spacium iiij^{or} mensium aut eocirca per decessum quondam Michaelis [1] balfour [1] aui [patris ?] sui domini libere tenementi earundem ob defectum heredis legitimi Jus suum hactenus minime prosequentis etc

Curia Capitalis vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per nobilem virum Johannem Magistrum lindesay de petcrovy militem vicecomitem de fiffe Georgeum Strang de balcasky & Andream lundy de Stretharly eius deputatos xiij^{o} die Mensis Aprilis Anno domini m^{o} v^{c} xviij^{o} 35*r*

Nomina absencium

p The l of bordland Sawlyng
p s The l of Rossith
p s The l of Drone
p s The l of petconnoquhye
p s The l of gosparty
p s The l of kynnescott
p s The l of lochorschire eistir
p s The l of cowdrane & the maw
p The l of glasmonth
s The l of Wemys eistir
p s The personaris l of Disert except george erth
p s The l of clatty
p s The l of balcanquoll
p The l of anstrothir
p The l of Reras
p s The l of ardre personare ramsay of lauis
p The l of pettinveme
p s The l of the barony of culessye
p s The l of pinkertoune & pettolly
p s The l of balmonth
p s The l of balneile
p s The l of touch vestir
p s The l of touch eistir
p The l of lumbenny [2]
p s The l of Sauchope
s The l of culerny
p s The l of [3] moncrefe for colsye

Nomina assise

Schir petir crechtoune of Nachtane kny[t]
Alexander Narne of pursk
Johnne drummond of flask

[1] Repeated in the text. [2] *moncrefe* deleted here. [3] *lumbenny* deleted here.

Johnne wardelaw of torrye
Andrew seytone of perbroith
George dischingtoune of Ardros
Williame bruce of Erlishall
Williame monypenny of petmolye
Johnne Claphane of claslogy
James Garding of neutone
Alexander auchmouty of that Ilke
Alexander terwate of that Ilke
Alexander lochmalony of that Ilke
Johnne setoune of balbirny
Dauid Tullo of hilcarnye

Secta Quo die petrus crechtoune de Nachtane Miles intrauit Thomam portare Sectatorem curie pro terris suis baronie de nachtane qui Juramentum corporale prestitit de fideli administracione in hujusmodi officio usquedum exoneretur

Secta Quo die petrus hethirveik intratus & Juratus [est] in sectatorem curie pro terris de petcullo

Secta Quo die dominus de petmolye Intrauit geruasium bransche sectatorem Curie pro terris suis de bawbot

Qui Jurati dicunt quod quondam Stephanus dudingstoune Auus Stephani dudingstoune latoris presencium obiit ultimo vestitus et Sasitus ut de feodo ad pacem et fidem Supremi domini nostri regis de tota et Integra una tercia parte omnium et Singularum terrarum de Sandefurd cum pertinenciis Jacentium infra vicecomitatum de fiffe Et quod predictus stephanus presencium lator est legitimus & propinquior heres eiusdem quondam stephani aui sui de predicta tercia parte terrarum de sandefurd cum pertinenciis Et quod est legitime etatis Et quod tercia pars predicta terrarum de Sandefurd cum pertinenciis nunc valet per annum decem ℔ monete currentis scocie Et quod tempore pacis valuit xx s̃ Et quod tenetur in capite de supremo domino nostro Rege per seruicium albe firme reddendo unum ₫ argenti ad festum sancti martini in hyeme[1] apud sandefurd nomine albefirme si petatur tantum Et quod nunc existit in manibus supremi domini nostri regis antedicti tanquam domini superioris eiusdem

[1] *yheme* in the manuscript.

per decessum quondam Jonete Stewarte Sponse dicti quondam stephani domine coniuncteinfeodacionis eiusdem ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad tempus et spacium Septem mensium elapsorum aut eocirca etc

xiij° aprilis Rescripto anno xviij° 35*v*

The quhilk day Johnne Wardlaw of torrye become souerte & lauborgh to the schireff for Johnne claphane of claslogy that Johnne dalglesche sal be harmeles & scathles of hyme & all that he may lett bot as the law will wnder the panis contenit in the kingis lettres & eftir the tenour of the samyne quhilkis war presentit to the schiref in Jugement & Red in presens of party & the hale courte And the said Johnne claphane oblist to Releife & freth hyme of the said souerte & lauborrouis viz ij^{c} merkis plegium Juris

The quhilk day & courte the said Johnne claphane of claslogy become souerte & lauborrouis to the said schireff for george claphane his sone & aperand aire that the said Johnne dalglesche salbe harmeles & scathles of hyme & all that he may lett but fraude or guile as the law will wnder the panis contenit in the said lettres & eftir the tenour of the samyn viz J^{c} l̃. plegium Juris

The quhilk day Johnne rankelour of that Ilke become souerte & lauborgh to the schireff for alexander schethome of caskelpye that James williamsone salbe harmeles & scathles of hyme & all that he may lett but fraude or gile as the law wil wnder the pane of law & the said alexander oblist to freth hyme tharof plegium Juris

The quhilk day Johnne Scitoune of [*Lothreisk*] [1] become souerte & lauborgh to the schireff for James Williamsone that Alexander schethome of skelpy salbe harmeles & scathles of hyme & all that he may lett but fraud or gile as the law will wnder the pane of law & the said James oblist to freth hyme plegium Juris

[1] Blank in manuscript.

Compromise

Quo die Compromiserunt Magister Thomas meldrome de Segy pro Joneta dischingtoune eius sponsa et pro ipsius interesse ab una et Thomas forestare de Strethanry et Robertus aytoune procuratores et eo nomine Jacobi lundyn de balgony [partibus ab altera] in personis subscriptis viz . . .[1]

The quhilk day henry Sibbald be command of the schiref in Jugement as mare & officiare summond warnit & chargit Waltir arnot Johne dudingstone & James dunbar personalye apprehendit to compere before the schiref of fiffe or his deputis ane or ma in the nixt schireff court of fiffe to be haldin at Couper the xj day of Maii nixt to cum in the houre of cause to ansuere at the instance of anabel abircrumby apone the poyntis and articlis contenit in ane libillit summondis present & red in Jugement & eftir the tenour of the samyn with intimacione as efferit

procuratio

Quo die Willelmus lindesay de piotstoune constituit dauid gregour suum procuratorem in omnibus actionibus suis et signanter inter ipsum & dominum claslogy

The quhilk day James lorumare procuratour admittit In Jugement for Patrik lorimare renuncit the proces passit apoune ane pretendit inquest takin in the tone of disert tueching ane parte of ane tenement clamit be hyme in presens of his party with intimacioune as efferit

36r[2]

Curia vicecomitatus de fiffe Tenta in pretorio burgi de cupro per Nobilem virum Johannem Magistrum lindesay de peterovy Militem vicecomitem de fiff et Thomam grundistoune eius deputatum die undecimo mensis Maii Anno domini millesimo quingentesimo xviij°

[1] Entry incomplete.

[2] At the head of the folio the word *boswell* is written, and below the fencing *boswell balran of castelaggis*. As with the word *auchtermuchty* on pp. 81, 85, doubtless written by the scribe either for memoranda or as rubrics for entries not made.

NOMINA ASSISE ET INQUISICIONIS

George dischingtoune of ardros r[1]
James Sandilandis of crovye
Thomas berclay of the rynd
Johnne Inglis of tervatt
Johnne hay of fudye
James gardyne of the newtoune
Johnne drummound of the flaske
Alexander louchmalony of that Ilke
Thomas hay of sandefurd
Frances ramsay of foxtoune
Alexander gourlay of southeld
Alexander schethome of skelpy
Andrew bonare of frertoune
r Johnne claphane of claslogy of the brefe
r George Wemys / of iorimaris brefe

The quhilk day Johnne claphane of claslogy grantit in Jugement that he was souerte to williame lyndesay of piotstoune for master alexander kynnynmonth for certane catale girs in craghall & alegeit that the said master alexander aucht to freith & warand hyme tharof

The quhilk day Master Thomas wemis prelocutor for dame Isobell dischingtoune lady of kilconquhare & annabell abircrummy protestyt for the priuilege of law & excepcionis to be proponit agane the Juge the membris of courte & al proces in the actioune & brefe of inquest persęuyt be waltir arnote of that ilke as tutour to stevyne dudingstoune nevo & aire to wmquhile stevyne dudingstoune of sandfurd

The quhilk day the said master Thomas askyt the Juge curatores ad lites to the said stevyne dudingstoune & the Juge grantit the said george dischingtoune Isobell dudingstoune annabel abircrummy & master thomas foirsaid curatores ad lites to hyme & interponit his autorite tharto

The quhilk day Thomas dischingtoune Steuarte of the Regalite of Sanctandrois personaly in Jugement askyt at

[1] *of the bref* added in margin.

the schireff the brefe of Inqueist producit before hyme be waltir arnote tutour to stevyne dudingstoune apone the persute & clame of the twapartis of the landis of Inchewnye liand within the lardschipe of kilconquhare Regalite of Sanctandrois & schirefdome of fiffe to be replegiate & Remittit to my lord Archibischope of sanctandrois courte of the said regalite because my L of sanctandrois had ane chapell of his aune regalite patent for breues to al persone of his regalite & usyt the samyn daly & tharfore protestyt that gefe the said brefe perseuit be waltir arnote tutour to stevyne dudingstoune wpone the said landis of Inchewny liand within his said regalite ware seruit in the said schiref courte for remede of law & that the samyne suld nocht hurt my said Lordis priuilege nore turne hyme nore his regalite to na preiudice in tyme tocum

The quhilk day waltere arnote of that Ilke grantit that thar was ane chenze [1] of gold quhilk the said master thomas prelocutour foirsaid clamete to pertene to the said Stevyne dudingstoune as areschipe the quhilk chenze the said waltere allegeit was wmquhile Jonete steuartis propir abilzeament of hir persoune & left be hir in legaci to elizabeth dudingstoune his spous & swa was none aireschip nore pertenit nocht to the aire And ane collare of gold siclike

The quhilk day alexander schethome of cascheskelpye was summond personaly in Jugement be henry sibbald Mare of the command of the schiref to compere before hyme or his deputis ane or ma in the said tolboith at the nixt schiref courte thar to be haldin the first day of Junii nixt tocum in the hour of cause to ansuere at the Instance of James williamsone wpone the wranguis distruccione of ane kow of his & wranguis withhalding fra hyme of ane pott ane tub & ane almorye [2]

amerciatur The quhilk day Johnne dudingstoune was ofttymes callit & comperit nocht as he that was lachfullye summond at the Instance of Elizabeth baldwyne the Relict of

[1] Chain. [2] Chest or casket.

quhilum dauid balfour of caraldstone & tharfore was amerciit & dome gevyne tharupone

The quhilk day Mastir dauid Spens persoune of flisk producit & schew in Jugement ane lettir of the kingis of tutour datiue of Johnne orrok & protestyt that thar suld nane wthir have place to persew na breuis tharof quhill that war callit & reducit 36v Spens

The quhilk day Johnne scott & Thomas pratt war summond in Jugement to compeire at the nixt courte to bere witnes in Johnne carrikkis actioune aganis Alexander schethome of caskelpye quhilk was summond personaly in Jugement to compere the said first day of Junii to ansuere at the Instance of the said Johnne carrik & to here & se the said witnes producit suorne & admittit carrik

Curia vicecomitatus de fiffe Tenta apud burgum de Cupro per Thomam grundistoune vicecomitem deputatum de fiffe die primo mensis Junii Anno domini millesimo quingentesimo xviij°

Nomina Inquisicionis et assise

[Quo die]

Dauid Ramsay of Culuthie
Johnne claphane of claslogy
Thomas berclay of the Rynd
Johnne Inglis of tervate
Dauid grundistoune of glaslie
Alexander schethome of caschekelpye
Alexander wemys of seres
Villiame Ramsay of brekmond
Alexander louchmalony of that Ilke
Dauid grundistoune of kingask
Alexander gourlay of southeld
Francesk Ramsay of foxtoune
Andrew kynlouch of luthre

The quhilk day henry Sibbald mare of the quarter of Edyne of the speciale command of the schiref depute foirsaid summound alexander wemis personaly apprehendit to compeire before the schiref of fiffe or his deputis

ane or ma in the nixt schiref court of fiffe to be haldin at Couper the xxij day of Junii foirsaid to ansuere at the Instance of dame katerine halkhed the Relict of wmquhile Andrew kynnynmont of craghall kny^{t} & Andrew hir sone wpone the poyntis & articlis contenit in ane precepte of summoundis thane presentit to hyme & red in Jugement & eftir the tenour of the samyn

The quhilk day the actioune & cause movete be Andrew farny of that Ilke & hew farny his tutour aganis Johnne Sibbald in farny contenit in ane summoundis tharupone Is with consent of the said andrew & hew one ane parte & Johnne claphane of claslogy admittit & caucionare for the said Johnne sibbaldis Intraes at the nixt court wnder the pane of wnlaw [one that uthir parte] continu[i]t to the said xxij day of Junii in hope of concord & thai warnit tharof apud acta

The quhilk day Johnne Spens of lethalland was summond personaly in Jugement to compeire the saidis day & place to ansuere at the Instance of the schiref of his office for the breking of ane arrest maid be henry Sibbald & to heire Johnne brounis expensis taxit eftir the forme of ane precepte tharupone

The quhilk day the actionis & causis betuix the lard of caschekelpy & his partiis Is be thame referryt to my lord lindesay & the maister lindesay to decid apone thame with baith thar consentis & the materis continuit in the mentyme with consent of party to the nixt courte in hoipe of concord etc

lundin in campo bellico

Qui Jurati dicunt quod quondam Thomas lundin de prateris miles pater walteri lundin latoris presencium obiit ultimo vestitus et sasitus etc de uniuersis terris de over prateris et de una quarta parte omnium et singularum terrarum de nethir prateris cum pertinenciis Jacentium infra baroniam de lundin & vicecomitatum de fif Et quod predictus valterus est legitimus & propinquior heres etc Et quod est legitime etatis Et quod terre de over prateris cum pertinenciis valent nunc per annum xx ℔/et tempore

pacis [valuerunt] iij ℔ Et [quod] quarta pars de nethir prateris valet nunc per annum x marcis & tempore pacis [valuit] xx ℒ Et tenentur [1] de supremo domino nostro rege [1] [per seruicium] warde & Releuii Et quod feodum dictarum terrarum cum pertinenciis nunc existit in manibus supremi domini nostri regis antedicti Racione warde [2] per decessum predicti quondam Thome militis ob [3] non etatem heredis legitimi Jus suum hactenus minime prosequi valentis ad spacium v annorum elapsorum aut eocirca Et quod liberum tenementum earum [4] existit in manibus Johannis lundin de eodem militis domini libere tenementi dicte baronie Racione Reseruacionis eiusdem pro tempore vite sue [4] In quorum etc

Curia vicecomitatus de fiffe Tenta In pretorio burgi de cupro per honorabilem virum dauid Sibbald de lethame vicecomitem deputatum de fiffe xxij° die mensis Junii Anno domini millesimo quingentesimo xviij° 37r

Nomina Inquisicionis et assise

Alexander borthuik of gordonishall
Henry petcarne of petlour
Johnne chaumer of drumlochye
Johnne balfour of dovene
Dauid grundistoune of kingask
Johnne hay of fudye
Alexander wemis of Seres
Johnne schevaes of kenbak
Johnne forestar of the newtoune
George erth of smethtoune
Frances Ramsay of foxtoune
Dauid tullo of hilcarny
Alexander kincaid of petscotty

Continuatur curia ad xvj[tem] Julii proxime sequentem

The quhilk day the [5] x merk [5] landis callyt moncurris apprising landis liand in luquheris within the schirefdome of fiffe

[1] Added above the line, and *de barone baronie de lundin* deleted.
[2] *ob non* deleted here.
[3] The manuscript has *of.*
[4] This phrase occurred immediately following *warde & releuii*, but was deleted and added at the end of the entry.
[5] Added above the line.

war be the said Inquest chosyne & suorne of the speciale command of the schiref depute foirsaid be wertu of the kingis lettres tharupone direct to the schiref of fiffe & his deputis apprisit to master dauid Seitoune for the byrun malis tharof be the space of xxix ȝeris to the Soume of xiiij scoire x merkis wsuale money of Scotland like as the Retour off the said apprising wnder the sele of office of the schireff of fiff & certane wthir selis of the baronis chosyne and suorne tharupone proportis

plegium Juris — The quhilk day walter skirling become souerte & law-borgh for Archibald swyntoune And the said Archibald alswa for the said walter that robert swyntoune suld be harmeles & scathles of thame & Ilkane of [thame] bot as the law wald eftir the forme & tenour of the kingis lettres & wnder the panis contenit in the samyn Impetrate be the said roberte

continuatur — The quhilk day the actioune & cause movete be Elene ranaldstoune aganis robert hog in markinsche wes with consent of party continuit to the xvj day of Julii nixt to cum & the partiis warnit tharof apud acta

continuatur — The actioune & cause movete be williame lindesay of piotstoune aganis Johnne claphane of claslogy was be the schiref depute foirsaid of his office for debilite of court continu[i]t to the said xvj day of Julii but preiudice of party in hope of concord

continuatur — The quhilk day al actionis of party war be the schiref depute foirsaid for debilite of courte & wthir causis moving hyme tharto continu[i]t of his office to the said xvj day of Julii & Intimacione maid tharupone be opyne proclamacione as efferyt

continuatur — The quhilk day the actioune & cause movete be dame katrine halkhed aganis Alexander wemis of Seres tueching the warandice of ane tak & letteris maid to hir tharupone is with consent of party continuit to the xvj day of Julii foirsaid wnder hoipe of concord

replegiacio — Quo die dompnus Andreas boytour monachus monasterii

de balmorinach cum commissione sufficiente Judicialiter publicata & perlecta Replegiauit dauid boytour tenentem domini abbatis & conuentus dicti monasterii ad curiam dicti domini abbatis tenendam apud balmorinach xiij° die mensis Julii proxime futurum Inuenta caucione Thoma berclay de Rynd pro Justicia ministranda Inter dictum dauid et Johannem ramsay de pettachope

The quhilk day Walter skirling become souerte for plegium Archibald Swyntoune And the said Archibald for hyme that Robert Swyntoune his wif & barnis suld be harmeles & scathles of thame & all that thai mycht lett eftir the forme & tenour of the kingis lettres direct to the schiref of fiff & his deputis tharupone & wnder the panis contenit in the samyn And to entir before the kingis Justice in the nixt Justice are of fiff eftir the forme & tenour of the said lettres to wnderly the law wnder the said panis witnes present dauid douglace schir Johnne balfour Johnne erth & wthir diuers

Quo die dauid pitblatho dominus feodi eiusdem Intrauit secta Johannem webstare incolame de pitblatho sectatorem Curie pro terris suis de pitblatho qui Juramentum prestitit ad hujusmodi officium usquedum exoneretur

Curia vicecomitatus de fiffe Tenta In pretorio burgi de 37*v* Cupro per Nobilem virum Johannem Magistrum Lindesay de petcrovy Militem vicecomitem de fiffe dauid Sibbald de Lethame & Thomam grundistoune suos deputatos die xvj^to^ mensis Julii Anno domini Millesimo quingentesimo xviij°

The quhilk day the actioune & cause movete be Elene continuatur Ranaldstoune aganis Robert hog tueching the wranguis spoilzeing of certane gudis fra hir as wes allegeit & contenit in the precepte of summondis tharupone Is with consent of party continuit in hope of concord to the hed schiref courte nixt eftir michalmes & the partiis warnyt tharof apud acta

plegium Juris

The quhilk day the said Robert hog become souerte [1] & lawborgh [1] for hyme self his hand & his gude to the said Johnne master lindesay schiref in Jugement wnder the pane of law & x li to the party that the said Elene suld be harmeles & scathles of hyme & all that he mycht lett bot as the law wald presentibus domino de culerny Thoma berclay de Rynd magistro Thoma wemis ac deputatis prescriptis cum diuersis aliis

Robertsone

The quhilk day In the actioune & cause Movete be Johnne Robertsoune in remelry aganis margarete dudingstoune the relect of wmquhile dauid balfour of caraldstoune stewyne dudingstoune & Johnne dudingstoune tueching the alegiit wranguis spoilȝeing & eiectione of hyme furth of his tak of ane auchtaneparte of the landis of Remelrye with thar pertinentis liand within the schirefdome of fiffe like as at lenth wes contenit in the summoundis tharupone the partiis foirsaid comperand personaly thar Richttis Resonis & allegacionis being producit herd sene wnderstandine & considerit It was allegiit be the said margarete that the said Johnne had na tak of the said landis & nochtwithstanding that he had na tak he was lauchfully warnit to Remoiwe of the ground because he was tharin & allegiit to hafe tak & intraes tharto wpone the space of xl dayis preceding the terme of witsonday last bipast & referrit the samyne to the aitht of the said Johnne quhilk deponit be his aith suorne that he was nocht lachfully warnit of before wpone the said space to remove of the ground And thareftir he producit certane witnes quhilkis war lachfully summond tharto of before & in presens of party war resauit sworne & admittit to prefe the Intent of the said Johnne be the quhilkis It was lauchfully previt that wmquhile dauid balfour of caraldstoune the spous of the said margarete had sett to the said Johnne Robertsone the tak of the said auchtane parte of the landis of remelry with thar pertinentis nocht nemmand nore exprimand na termes bot like as he did til wtheris his tennentis & had tane fra hyme v crounis of money for Intre siluyre tharof

[1] Added above the line.

And tharfore the Juge being avisyt with his assessouris decretyt & deliuerit that the saidis margarete stevyne & Johnne had done wrang in the spoilȝeing and eiectioune of the said Johnne furth of the said tak & ordanit hyme to be Interit agane tharto & kepyt & defendyt tharin ay & quhil he be lachfully warnit to Remove & ordourly put tharfra be the law to be Josyt & broukyt be hyme as the laive [1] of the tennentis dois & gert gefe dome tharapone amerciatur & ordanit preceptis to be direct tharwpone eftir the forme of law as efferyt

The quhilk day the actioune & cause movete be williame continuatur lindesay of piotstoune aganis Johnne claphane of claslogy lyndesay tueching certane catale girs of craghall to the noumer of ij^{c} sowme [2] quhilk the said Johnne become souerte for wes with consent of party continuit to the thrid day of august nixt tocum in hope of concord but preiudice of party & that day to Resaue his prefe wpone the Noumer & avale & price

The quhilk day the actione & cause movet be master continuatur henry wemis in the name of Elizabeth gourlay & of hyme self aganis george wemys & dauid wemis of that Ilk etc tueching the cognicioune taking of the possessione of the landis of michalstoune like as at lenth Is contenit in our Souerane Lordis lettres & precept direct & past tharupone Is be the schiref foirsaid continuit to the thrid day of august nixt tocum in forme & effect as It now is with consent of party but preiudice of ony of thame saiffand & reserwand to thame al Just excepcionis & priuilegis of law And in elikwis the summoundis betuix the saidis parteis before the lordis of counsale is continuit with consent of thame baith to the said day but preiudice of party & the witnes summond apud acta to the said day

Quo die actio inter dominum de craghal et alexandrum continuatur vemis continuatur ut prius ad tercium augusti proxime futurum

[1] Remainder, rest.

[2] The amount of pasture which would support one cow or a proportionate number of sheep (generally four or five). Cf. *infra*, p. 178.

38r continuatur

The quhilk day the actioune & cause mowet be Isobell louchmalony the Spous of wmquhile Johne gourlay of Southeld aganis Alexander gourlay of Southeld contenit in ane precepte of summoundis tharupone Is with consent of party [1] continuit to the thrid day of august nixt tocum in forme & effect as It now is but preiudice of party & the partiis warnit tharof apud acta

continuatur

The quhilk day the actioune & cause perseuyt wpone Thomas berclay of the Rynd Thomas inglis of ardeth Dauid ogilvy Johnne of murray & alexander forestar be alexander kincaid of pitscotty contenit in the summoundis tharupone Is with consent of party continuit to the said thrid day of august but preiudice of party

Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per dauid Sibbald de lethame & Thomam grundistoune vicecomites deputatos de fiffe die penultimo mensis Julii Anno domini Millesimo v^c xviij^o

Nomina assise et Inquisicionis

Schir petir Crichtoune of the Nachtane knyt
Dauid Spens of wilmerstoune
Andrew Seitoune of parbroith
Johnne hay of fudye
Thomas berclay of the Rynd
Johnne martyne of Cardwane
Alexander schethome of caskelpye
Alexander terwat of that Ilke
Dauid tullo of hilcarny
Alexander lochmalony of that Ilke
Alexander Narne of pursk
Frances Ramsay of foxtoune
Andrew bonare of frertoune

pro burgo de Cupro

The quhilk day the baillies counsale & comunite of the burgh of Couper Comperyt in courte And [2] producit oure Souerane Lordis lettres direct to the schiref of fiffe & his deputis chargeing thame to tak cognicioune quhat possessioune the provest baillies & comunite of the said burgh of Couper & thar predicessouris has had & has of fredome

[1] *to the* deleted here.

[2] An ampersand repeated here.

& priuilegis to thar schippis to lois & laid pas & repass within the watter of Edyne & mothre quhare the sey fillis & flowis & as thai fynd to keip & defend thame in siclike possessioune tharof in tyme to cum ay & quhil thai be lachfully callyt & ordourly put tharfra as at mare lenth wes contenit in the saidis lettres the quhilkis lettres the schiref deputis foirsaid Resauit & gert Reid the samyn opinly in Jugement & gert call the personis quhilkis ware lachfully summound tharto of before be ane precepte lachfully execute & Indorsyt & thai being personaly comperit & present the mater foirsaid contenit in the said lettres was put to the cognicione & knawlaige of the baronis & frehaldaris aboune exprimyt tharto summound chosine & sworne quhilkis eftir the publicacioune of ald charteris with diuers evidentis documentis & probacionis be the said baillies counsale & comunite producit & red in Jugement removete [furth] of cowrte And tharwith thai being at lenth ripely & weil avisyt Reinterit in Courte & all in ane woce concordandlye deliuerit & pronuncit be the mouth of schir petir [1] crechtoune of the nachtane knyt that the saidis provest baillies & comunite of the burgh of Couper & thar predicessouris has had and has peceable possessioune of fredome & priuilegis to thar schippis within the watter of Edyne & mothre quhare the sey fillis & flowis to remane lois & laid pas & repass but pley or Impediment past memour of man quhil this complaynt contenit in the kingis lettres foirsaid like as It [is] contenit in the samyn And thane the Jugis foirsaid be decrete of courte ordanit [2] & decernit [2] the saidis provest baillies & comunite of the burgh of cowper to Remane & be kepit in the samyn possessioune ay & quhil thai be lachfully callit & ordourly put tharfra & preceptis tharwpone to be direct in dew forme as efferis to the samyn effect

penultimo Julii anno xviij° 38*v*

The quhilk day Thomas berclay of the Rynd constitute procuratour procuratouris for hyme in the actioune movete betuix

[1] *of* deleted here.

[2] Added above the line.

hyme & Alexander kincaid Johnne kynnynmont & the remanent [personis] contenit in the summondis tharupone viz. dauid gregour henry Sibbald [ ][1] with pouere to continew to ane certane day nochtwithstanding the feriate tyme of hervist admittand the samyn & to assent tharto alanerly & promittit to hald ferme & stable as the maner is

Scott

The quhilk day In the actioune & cause movete be James Scott burges of diserte aganis ane noble Lady margrete Lady Sinclare & certane wtheris hir serwandis & complices[2] tueching the fruitis of the personage of the kirk of disert etc as in the summoundis tharupone at lenth is contenit the said James Scott comperand personaly & the said lady be hir procuratour master archibald heriote etc admittit in Jugement Master James Symsone persoune of Kirkforthir prelocutour for the said James & in his Name askyt & clamete the said lady & hir complices certane wictualis quhilk scho & thai had intromittit with & takine wp wrangusly of the fruitis of the said kirk quhilk pertenit to hyme as fermourare to the persoune of the samyn And the said master archibald procuratour for the said lady & hir seruandis alegeit that he had na commissioune nore pouere direct to hyme to procure forthir in the said mater bot to consent to the continuacione tharof to ane othir terme & to admitt the samyne lachfull nochtwithstanding ony feriate tyme or wthir impediment And thane the said Master James Symsone persone foirsaid as prelocutour for the said James protestyt for the largest price of wictualis that was gevyn in the cuntre because that he had perseuit the samyn detfully as efferyt & was postponit & deferryt tharfra be the said lady with dilatouris & that he mycht hafe the said price of the foirsaid lady

continuatur

The quhilk day the actione & cause foirsaid perseuit be James Scott aganis the lady sinclare was be the said James for his parte & consent & with consent of the said master archibald procuratour to the said lady continuit

[1] Blank in manuscript.

[2] *as* deleted here.

in al effect & forme as It now Is to the xiiij day of august foirsaid nochtwithstanding the feriate tyme of hervist & admittand the samyne & the partiis & witnes warnit tharof apud acta & summond tharto be henry sibbald mare be command of the Juge in Courte

The quhilk day the actioune & cause perseuit be thomas freremylne aganis Johnne stanis and thomas martyne was with consent of party continuit to the hed schirref courte nixt eftir michalmes in forme & effect as It now is but preiudice of party And Johnne farny souerte be his hand for the intraes of the said thomas martyne to the said courte wnder tynsale of his cause continuatur

The quhilk day dauid hay of ardet protestit that the cognicione takyne be the command of the kingis lettres tueching the fredome & priuileige of the prouest baillies & comunite of the burgh of Couper in [the] watter of Edyne suld turne the lard of culuthie nore his aris to na preiudice in thar heretaigis & priuilegis of the said watter protestacio

The quhilk day Elizabeth fleming lady of hilteruat protestit that quhat war done be Johnne grahame or alexander lochmalony tenentis of hilcarny suld turne hir to na preiudice protestacio

The quhilk day Alexander teruat of that Ilke protestit siclik, that quhat war done betuix the saidis Johnne & alexander suld turne hyme to na preiudice protestacio

Continuatur actio inter Johannem grahame & Alexandrum lochmalony ex partium consensu ad xiiij augusti admittendo tempus feriatum

Curia vicecomitatus de fiffe Tenta apud burgum de Cupro per Nobilem virum Johannem Magistrum Lindesay de petcrovy Militem vicecomitem de fiffe et Thomam grundistoune eius deputatum die tercio mensis augusti anno domini Millesimo quingentesimo xviij° 39r

NOMINA INQUISICIONIS ET ASSISE

Dauid kynnere of that Ilke of master dauid setounis actioune
Thomas lummisden of condolane
Johnne claphane of claslogy of M dauid setounis actione
Johnne hay of fudye
Johnne balfour of doveyne
Alexander auchmouty of that Ilke
Johnne setoune of lothreisk of M dauid setounis actione
Johnne seitoune of balbirny of the said actione
Andrew strang of petcerthie
Laurence burell of the neutoune
Johnne forestar of the Newtoune
Williame Seitoune of Ramgally of M dauid setounis actione
Frances ramsay of foxtoune
Johnne drummond of the flassis
Alexander louchmalony of that ilk of M dauid setounis actione
Alexander narne of pursk
Dauid tullo of hilcarny
Alexander wemis of Seres
Alexander schethome of caskelpye

Qui JURATI dicu[n]t quod quondam Walterus strang de petcorthie pater Agnetis strang latricis presencium obiit ultimo vestitus et saisitus ut de feodo ad pacem et fidem supremi domini nostri regis de tota et integra una octaua parte omnium et Singularum terrarum de ardre cum pertinenciis Jacentium infra vicecomitatum de fiffe Et quod predicta Agnes presencium latrix est una de legittimis et propinquioribus heredibus dicti quondam Walteri sui patris de predicta octaua parte terrarum cum pertinenciis viz de una tercia parte earundem Et quod est legitime etatis Et quod prescripta Octaua pars terrarum de ardre cum pertinenciis valet nunc per annum [ ][1] usualis monete regni scocie Et tempore pacis valuit [ ][1] Et quod tenetur in capite de Supremo domino nostro rege per seruicium warde et releuii Et quod nunc existit in manibus sue celsitudinis racione warde per decessum dicti quondam Walteri ob [2] non etatem [2] veri heredis Jus suum

[1] Blank in manuscript.
[2] *defectum* deleted and *non etatem* added above the line.

hactenus minime [1] prosequi valentis [1] ad spacium [ ] [2] annorum elapsorum aut eocirca In quorum etc

Qui Jurati dicunt quod quondam walterus strang de petcorthie pater etc obiit ultimo vestitus et sasitus ut de feodo ad fidem et pacem Supremi domini nostri regis

The quhilk day the actione of spulȝe persewit in Jugement be Alexander wemis aganis andrew kynninmonth of craghall & Johne kyninmonth his tutour as thai that were lauchfullye summond tharto be ane precept be command of our souerane lordis lettres for the spoliacione of ane kow and ane stirk furth of the said Alexanderis landis of Seres the said Johne as tutour comperand for the said andro & for hyme self allegi[i]t that the said Alexanderis landis wes in waird to the ourlord be resone of the act of the feld and thane the said schiref gert reid the kingis lettres and said he wald proceid apone the po[i]ntis of thame and askit geif the said andrew wes enterit to the principale landis and elikwis the said alexander to his tenandry of the saidis landis of Seres and thane the said Johne as tutour producit ane Instrument of sesing of the said andrewis interes to the principale landis of Seres and allegiit that the said alexander wes neuir interit to his tenandry be his ourlord sen the decese of dauid wemis fader to the said Alexander and thane the said alexander producit ane Instrument of sesing wnder the signe & subscripcione of Johne farny notar publict makand mensioune that wpone the xij day of Julii in the ȝeire of god J^{m} v^{c} & tua ȝeris that wilȝeame kyninmonth of culluithe bailȝe to schir andro kyninmonth of craghall gaif sesing to alexander wemis of his quarter of the landis of seres eftir the forme of his auld infeftment befure thomas grundistone wilȝeame gray schir robert child schir thomas gibsone And thane the said schiref maid to be callit certane witnes summond to preif the said spulȝe the gudis & the awailis tharof the quhilk prewis beand suorne tharto

[1] *prosequentis* deleted and *prosequi valentis* added above the line.
[2] Blank in manuscript.

& exempnit deponit that the said alexander wes in possessione of the said landis & that the said Johne as tutour spulȝeit the said gudis furth of the said landis the price tharof xl ℔ and thane the said schiref decernit decretit & deliuerit that the said Johne tutour had done wrang in the said spoliacione of the said gudis furth of the saidis landis because that the said andro wes interit to the principale landis of seres and elikwis the said alexander to his tenandry & in possessioune tharof and ordanis hyme to remane hereintill ay & quhill he be lauchfully callit & ordourly put tharfra & ordanis the saidis gudis to be deliuerit agane to the party or the price forsaid and the said tutour in amerciamentis of court for the said wrang & asiment to the party and preceptis to be direct tharupone as effeiris etc

39*v* Tercio augusti anno xviij°

lindesay The quhilk day It was fundin be interlocutour of courte that Johnne Claphane of claslogy had consentit to the continuacioune of the actioune perseuyt aganis hyme be williame lindesay of piotstoune tueching the borrowgang of certane catall girs being in craghall to the noumer of ij^{c} Soume as is contenit in the actis of courte maid tharupone of before & admittit the Juge but ony protestacione agane the Juge or membris of courte & that tharfore he aucht to ansuere in the cause

continuatur The quhilk day the said Johnne claphane grantit & consentit to the continuacione of the said actioune of borrowgang & the said williame alsua to the hede schiref courte nixt eftir michalmes but dilatour respect [1] or ony sik excepcione to be proponit scheuyn or alegiit be the said Johnne/& thane the Jugis continu[i]t the said actione with consent of party to the said hed schiref courte nixt eftir michalmes and warnit the partiis & summond the witnes in Jugement apud acta to the said courte

[1] respite.

The quhilk day the actioune & cause perseuyt be Elizabeth wemys the relict of wmquhile Johnne Strang aganis Jonete balfour countess of rothaes as is contenit in the kingis lettres & summondis tharupone is with consent of party viz of the said Elizabeth for hir self & of master dauid Spens persoune of flisk procuratour [1] for the said lady is continu[i]t to the xiiij day of august instant in forme & effect as It now is nochtwithstanding the ferriat tyme of hervist & the partiis be thame & thar procuratouris warnit herof apud acta continuatur

The quhilk day the actioune & cause perseuit be alexander kincaid aganis Thomas berclay of the Rynd & his complices contenit in the summoundis tharupone Is with consent of the said alexander & dauid gregore procuratour for the said Thomas continuit to the said xiiij day of august in forme & effect as It now is nochtwithstanding the ferriate tyme of hervist & thai warnit tharof apud acta continuatur

The quhilk day the actioune & cause movet be the said Thomas berclay aganis the said alexander kyncaid & Johnne kynnynmont tutour of craghall as Is contenit in ane summondis tharupone Is with consent of the partiis thame self & thar procuratouris continu[i]t siclike to the said xiiij day of august nochtwithstanding the feriate tyme of hervist as said is continuatur

The quhilk day in the actioune & cause perseuit be master henry Wemis procuratour for Elizabeth gourlay Aganis george Wemys tueching the cognicione taking of the landis of michalstoune like as at lenth is contenit in our Souerane lordis lettres & precepte of summoundis tharupone the partiis comperand personaly It was alegeit be the said george that the Jugis war suspect to hyme & tharupone proponit certane excepcionis And thane the said master henry protestit for Remed of law & priuilege to persew his actioune before ane competent Juge because he had Wemis

[1] *allegiit* deleted here.

perseuit the samyn thane & of before in the said schiref courte & couth get na proces & tharupone askyt the act of courte

40*r* Curia Vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem virum Johannem Magistrum Lindesay de piterowy militem vicecomitem de fiffe Andream lundy de stretharlie & Thomam grundistone deputatos eiusdem die xiiij^to^ Mensis Augusti anno domini millesimo quingentesimo decimo octauo Sectis vocatis curia affirmata etc

Continuatur The quhilk day the actioune & cause movete be James Scott in disert aganis the lady Sinclare & hir serwandis as is contenit at mare lenth in our Souerane lordis lettres & preceptis past tharupone is with consent of the said James for his parte & of schir malcolme mortimare procuratour for the said lady with sufficient pouere red & admittit in Jugement for the said lady continuit in forme & effect as It now is to the vij day of Septembere nixt tocum nochtwithstanding the feriate tyme of hervist quhilk Is admittit be the said procuratour

Continuatur The quhilk day the actioune & cause movet be Elizabeth wemis the Relict of wmquhile Johnne strang in taissis aganis Jonete balfour Countiss of Rothes as at mare lenth Is contenit in the kingis lettres & precepte of summondis past tharupone & actis of courte Is with consent of the said Elizabeth & of Master dauid Spens procuratour admittit for the said Countiss continu[i]t to the said vij day of Septembere in forme & effect as It now is Nochtwithstanding all excepcionis & priuilegis quhatsumeuir contrare the Juge membris of courte proces past & to pas in the said actioune Reseruat to the said Countess & but preiudice of hir & the said Master dauid procuratour foirsaid has consentit in the name of the said Countess that the witnes producit be the said Elizabeth in the said actioune be Resauit & thar deposicionis closyt to the said day or to quhat day the Juge plesis al excepcionis aganis the said witnes thar personis & deposicionis Reseruate to the said

lady except that the feriate tyme of hervist Is admittit be the partyis

Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per honorabilem virum Thomam grundistoune vicecomitem deputatum de fiffe die vij° Mensis Septembris Anno domini m° v^c xviij°

Nomina Inquisicionis et assise

Dauid spens de wilmerstoune	Johnne scott of spensarfeld
Dauid grundistoune de kingask	Dauid Jamisone
	Dauid andersoune
Frances Ramsay of foxtoune	Petir huhonsoune
George Erth of smethtoune	James huhounsoune
George leslye of Heichame	Andrew fogo
Alexander Spens	Thomas ferrye

Qui Jurati dicunt quod quondam Jacobus Scrimgeour Constabularius de Dunde Miles pater Jacobi skrimgeour constabularii de dunde latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem & fidem Supremi domini nostri Regis de totis et Integris terris de hilfeild et Southbordland cum pertinenciis ac de terris nuncupatis *le maris land* cum molendinis aquaticis et ventiticis earundem cum suis pertinenciis Jacentibus infra baroniam de Innerkething & vicecomitatum de fiffe Et quod Idem Jacobus scrimgeour lator presencium est legitimus et propinquior heres eiusdem Jacobi militis sui patris de predictis terris et Molendinis cum pertinenciis Et quod est legitime etatis Et quod prescripte terre cum pertinenciis et molendinis nunc valent per annum trigenti ℔ monete currentis scocie Et tempore pacis valuerunt quinque ℔ Et quod tenentur in Capite de Supremo domino nostro Rege per seruicium Warde et Releuii Et quod nunc existunt in manibus dicti domini nostri Regis Racione Warde per decessum dicti quondam Jacobi militis sui patris ob non etatem heredis legitimi Jus suum hactenus minime prosequi valentis ad spacium

xiiij annorum et vj mensium elapsorum aut eocirca In quorum fidem etc

40*v* vij° Septembris

Continuatur The quhilk day the actioune & cause movete be Elizabeth Wemys aganis Jonet balfour Countiss of Rothes as is at lenth contenit in the actis of court past tharupone of before is with consent of party be the schiref deput foirsaid continuit in forme and effect as It now Is to the viij day of the moneth of octobere nixt tocum but preiudice of party & thai warnit tharof apud acta .

Capitalis Curia Capitalis vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem virum Johannem Magistrum Lindesay de petcrovy militem vicecomitem de fiffe Dauid Sibbald de Lethame et Andream lundin de Stretharly suos deputatos et eorum quemlibet quinto die Mensis octobris Anno domini m° v° xviij°

Nomina absencium amerciatorum

p Dominus de blak sauling
S p bordland Sauling
S Drone
S p petconnochye
S p Cleische
S p kynnescowt
S p Lochorschire eistir
S p Coudrane & maw
p glasmond
S Wemys eistir
S p porcionar lardis of est part of disert
S p porcionar lardis of west part of disert except george erth
S p the lard of lauis porcionar lard of ardre
S p forate
p lucheris wemys
S p Lord saultone for his landis of dalgathie
S Lathalland
S p balgonware
S p Westir touch
S p Maristoune
S p gordonishall
S p Sauchope
S p colsye muncrefe

continuatur The quhilk day the actione & cause perseuit be Andro farny of that Ilk aganis Elizabeth lundy the relict of

wmquhile williame farny of that Ilk & dauid scott hir spous as is contenit in the summondis tharupone Is with consent of party continuit to the xxix day of octobere instant as It now is but preiudice of party & thai warnit tharof apud acta

Eodem die thomas freremilne constituit dauid gregour suum procuratorem in omnibus suis negociis et precipue . . .[1] procurator

Nomina assise et Inquisicionis

Johnne anstrothir of that Ilke	Williame monypenny of petmoly
Dauid berclay of touch	george Ramsay of clatty
Waltir heriote of burneturk	Francisk Ramsay of foxtoune
Alexander auchmouty of that Ilke	Alexander Sibbald of Rankelour
Johnne Lummisden of ardre	Alexander Narne of pursk
Johnne Seitoune of lothreisk	Thomas berclay of the Rynd
Dauid tullo of hilcarny	

Quo die Robertus dovery de eodem Intrauit Johannem malgask Juniorem sectatorem curie pro terris suis baronie de dovery qui Juramentum corporale prestitit de fideli administracione in hujusmodi officio usquedum exoneretur Secta

Quo die georgeus Ramsay de clatty Intrauit Alexandrum thomsone sectatorem curie pro terris suis de clatty ut supra Secta

Quo die Johannes kingorne Intratus [est] sectator pro terris de kinbrachmont Secta

Quo die Willelmus bruce de Erlishall Intrauit Andream lausone sectatorem curie pro terris suis de drumchuchope qui Juramentum prestitit ut supra Secta

Quo die willelmus galt intratus [est] sectator curie pro terris de westir wemis & principali domino eiusdem

[1] Entry incomplete.

Continuatur The quhilk day the actione & cause perseuit be James scott fermourare of the kirk of disert aganis ane noble Lady dame margrete Lady Sinclare williame clerk & androw quhite tueching the fruitis of the said kirk alegeit spoilȝeit be thame fra the said James & othir Soumes & gudis as at mare lenth Is contenit in the summoundis tharupone is be the schiref foirsaid with consent of master robert galbrath procuratour sufficient & admittit for the said Lady & caucionare for the saidis williame & Andrew promittand that thai sal hald ferme & stable quhat he dois in the said actioune but reuocacione one ane parte & of the said James one that wthir parte continuit & the summondis foirsaid in al effect & forme as It now is to the xxix day of octobere foirsaid but excepcione dilatour to be proponit be the saidis lady williame or andrew or ony of thame in the said actione & the partiis be thame self & thar procuratouris warnit tharof apud acta And the witnes producit be the said James in the said actioune summond personaly in Jugement be henry Sibbald mare of the command of the said schiref to compeire the said day & place as thae ware Summond of before & to the samyn effect

41*r* die quinto octobris prescripto

Secta Quo die Johannes malgask senior Intratus & Juratus [est] in sectatorem curie pro domino de Rossith henrico steuart et terris suis baronie eiusdem usquedum exoneretur

continuatur The quhilk day the actioune & cause persewit be thomas freremylne aganis Thomas martyne tueching the clame of ane hors as Is contenit in the actis of court maid tharupone of before Is with consent of party continu[i]t to the xxix day of octobere foirsaid as It now is but preiudice of party & hew ferny oblist for the entre of the said Thomas martyne [1] to the said day to ansuere to the clame of his party

[1] & deleted here.

The quhilk day the actioune & cause Movete be williame Lindesay of piotstoune aganis Johnne claphane of claslogy tueching the clame of ane certane Soume of money for the quhilk the said Johnne become souerte for to the said williame for master alexander kynnynmont for certane catall girs as Is contenit in the actis of court past tharupone of before is with consent of the said Johnne & of dauid gregour procuratour for the said williame continuit to the xxix day of Octobere foirsaid in forme & effect as It now is but preiudice of party & thai warnit tharof apud acta & the witnes siclik continuatur

The quhilk day the actione & cause persewyt be Elizabeth dischingtoune Lady of kilconquhare & Thomas Dunbar hir Spous aganis Stevyne dudingstoune petir dudingstoune wilzeame scheipherd James cartare williame craik & Thomas chapman as at mare lenth is contenit in the summondis tharupone is with consent of party wnder hoipe of concord continu[i]t to the xxix day of octobere foirsaid in forme & effect as It now is but dilatour excepcione & the partiis warnit tharof apud acta continuatur

The quhilk day In the actioune & cause perseuit be Master dauid Spens persoune of flisk williame touris & margarete hay his Spous assignais to the said Master dauid of the ward of the landis of balmole one ane parte And Roberte Orrok allegeand hyme tenent of the said waird landis one that wthir parte Aganis henry Stewarte of Rossith as aire & successour to wmquhile dauid Stewarte of Rossith his fader Anent the warandice of the said waird of the landis of Balmole sauld be the said wmquhile dauid to the said Master dauid and his assignais be his lettres wnder his Sele of armes & subscripcioune manuale quhilkis war producit be the said Master dauid & red in Jugement And in elikwise anent the warandice of ane assedacioune & tak of the said ward landis of balmole maid to the said Roberte be the said wmquhile dauid wnder his Sele & subscripcione manuale of the quhilkis baith the saidis partiis clamete warandice In ane courte precedent And was ordanit to be callit tharfor & to that effect in the Spens

said hede courte And thane the said henry steuarte being callit at the Instance of the saidis master dauid williame & margarete & comperand be dauid spens of wilmerstoune his procuratour with sufficient pouere of procuratory wnder the said henryis Sele present Red & admittit in Jugement the said dauid procuratour foirsaid grantit & affermyt the said warandice maid to the said master dauid & his assignais wnder his faderis lettir & sele tharupone For the quhilk the said Master dauid askyt the decrete & deliuerance of courte tharupone Quhilk was deliuerit & decretit be the schiref foirsaid avisit with his assessouris that the said henry suld warant to the said Master dauid & his assignais the foirsaid waird eftir the forme of his said wmquhile faderis letteris maid to hyme tharupone And because the said Robert comperit nocht be hyme self nore sufficient procuratour to persew his warandice allegeit of before & the said henry being lachfully summound at his Instance tharto And als the said Robert being summond at the instance of his party as was contract betuix thame tharupone the said dauid Spens procuratour for the said henry askyt in Jugement the said henry to be absoluit fra the peticioune & clame of the warandice of the said Roberte in defalt of his persute quhilk was actore & persewar in the actione according to the law & the said henry to be fre qwyte & absoluit tharfra in tyme cuming And thareftir the said Master dauid protestit for Remed of law tyme & place oportune

protestacio Quo die loco et hora dauid bosuel de cragsid nomine Roberti orrok publice et solemniter protestabatur quod quicquid actum fuerit Ibidem in actione prescripta sibi Roberto nullatenus preiudicaret et pro Remedio ac priuilegio Juris tempore et loco oportunis asserens dictum Robertum minime fori citatum

41*v* Curia viccecomitatus de fiffe Tenta In pretorio burgi de Cupro per Thomam grundistoune vicecomitem deputatum de fiffe die vij° mensis Octobris Anno domini Millesimo quingentesimo xviij°

The quhilk day & courte Andrew meffane & [*Robert*] [1] stirk with hyme in kynnard war ofttymes callit and comperit nocht as thai that war lachfully summound at the instance of Johnne stirling in kynhard eftir the forme & tenour of the schireffis precepte war in amerciamentis of courte for thar absence & dome gevin tharupone & ordanit to be summond to the nixt courte to the samyn effect amerciantur

Quo die Johannes hertished Juratus creatus et constitutus [est] in marum et sergiandum constabularie de kingorne et [juramentum corporale prestitit] de fideli administracione in huiusmodi officio usquedum exoneretur marus

[2] The quhilk day Andrew meffane and ane callit [*Robert*] [3] stirk with hyme war ofttymes callit & comperit nocht as thai that war lachfully summond at the Instance of Johnne stirling in kynhard war amerciit in the wnlaw of cowrte & dome gevyne tharupone amerciantur

The quhilk day Robert huhonsone in touch was summond personaly in Jugement to compere before the schiref of fiff or his deputis ane or ma in the schiref courte of fiffe to be haldin at Couper the xxix day of october foirsaid to ansuere at the Instance of Robert bosuele eftir the tenour of his precepte summonicio

Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupró per Thomam grundistoune et dauid grundistoune de kingask die viij° mensis octobris Anno domini millesimo quingentesimo xviij°

Quo die actio inter Johannem balfour de dovene Thomam balfour eius filium & Johannem piote prout latius in literis Regiis et precepto vicecomitis desuper emanatis continetur ex partium consensu sub spe concordie continuatur in forma [4] et [4] effectu ut nunc extat continuatur

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[1] Blank in manuscript.

[2] This entry has a deletion mark against it. The scribe had already entered the case immediately above.

[3] Blank in manuscript.

[4] Repeated in text.

ad xxvj[tum] Januarii proxime aduenturum absque alicuius partis preiudicio et partes Judicialiter premunite apud acta curie

continuatur The quhilk day the actioune & cause perseuit be Elizabeth wemys the relict of wmquhile Johnne Strang in taissis Aganis Jonete balfour Countiss of rothaes as at lenth is contenit in the actis of court was continuit to the nixt court

souerte The quhilk day James burt & dauid alexandarsone become souerte to the schiref in Jugement for the gudis of James dict conuict in the law samekle as can be lauchfully previt to be furthcumand to the schiref in the kingis name & in speciale for the cornes that he had grouand on his tak ane hors iij kye ane qwye [1] allegeit to pertene to hyme

42r Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem virum Johannem magistrum Lindesay de petcrovy militem vicecomitem de fiffe dauid Sibbald de lethame et Thomam grundistoune eius deputatos xxix° die mensis Octobris Anno domini Millesimo quingentesimo xviij° Sectis vocatis curia affirmata etc

Nomina Inquisicionis et assise

Alexander auchmouty of that Ilke
Johnne claphane of claslogy
Waltir Arnote fear of that Ilke
Alexander lochmalony of that Ilke
Dauid grundistoune of kingask
Paule balfour of bello
Johnne Seitoune of lothreisk
Williame baxster of the qwiltis
Thomas berclay of the Rynd
Williame spittale of luchald
Francisk Ramsay of foxtoune
Michale tullo
Alexander schethome of caskelpye

[1] A young cow or heifer of one or two years old.

Quo die In dicta curia patricius wemys de pettincref Secta
Intrauit dauid walcar Sectatorem curie pro terris suis de
pettincrefe prescriptis Qui juramentum corporale prestitit
de fideli administracione in huiusmodi officio usquedum
exoneretur

Quo die Thomas lassaellis & Jacobus lassaellis consti- procuratour
tuerunt & nominauerunt procuratores viz. Johannem lessaellis
seitoune de lothreisk cum potestate substituendi perdendi
& lucrandi in omnibus actionibus et precipue ad Respon-
dendum parti ac vicecomiti super contentis in precepto
eiusdem vicecomitis et promisit Ratum & gratum in
meliori forma

The quhilk day the actioune & cause perseuit be williame continuatur
lindesay of piotstoune aganis Johnne claphane of claslogy
as is contenit in the actis of courte past tharupone of
before tueching certane catale girs & souerte tharfore Is
with consent of the said Johnne & of dauid gregour
procuratour for the said williame continu[i]t in all effect &
forme as It now is to the xvj day of Nouembere nixt tocum
but preiudice of party & thai warnit tharof apud acta &
the witnes rychtswa

The quhilk day the actioune & cause movete be thomas continuatur
frermylne aganis Thomas martine tueching the clame of
ane hors as is contenit in ane precepte of summondis &
actis of court past tharupone of before is with consent of
party viz of hew ferny for the said thomas martyne &
dauid gregour procuratour for the said thomas frermylne
continu[i]t in all effect & forme as It now is to the xvj day
of Nouembere nixt tocum but preiudice of party & thai
warnit tharof apud acta And the said hew farny souerte
for the Intraes of the said thomas martine as of before

The quhilk day the actioune and cause perseuyt be
Andrew farnye of that Ilke aganis Elizabeth lundy the
Relict of wmquhile williame farny of that Ilke & dauid
Scott now hir spous . . .[1]

[1] Entry incomplete.

continuatur The quhilk day the actioune & cause movete be Elizabeth wemys the relict of wmquhile Johnne Strang in taissis Aganis Jonete balfour countiss of Rothaes as at lenth is contenit in the summondis tharapone Is with consent of party continuit to the xvj day of Nouembere nixt tocum in forme & effect as it now is but preiudice of party & thai warnit tharof apud acta & al the witnes summond personaly in Jugement siclike

continuatur The quhilk day the actioune & cause movete be Elizabeth dischingtoune lady of Kilconquhar & thomas dunbar hir Spous aganis stevyne dudingstoune petir dudingstoune williame scheiphird James cartare williame craik & thomas chapmane as at mare lenth is contenit in the summoundis & actis of court tharupone is with consent of party continuit to the said xvj day of Nouembere in forme & effect as of before but preiudice of party & thai warnit tharof apud acta

42*v* xxix octobris Rescripto

continuatur The quhilk day In the actioune & cause perseuit be James Scott fermourare of the kirk of disert Aganis Ane noble lady dame margarete lady Sinclare williame clerk & andrew quhite tueching the fruitis of the said kirk & othir Soumes & gudis alegeit Spoilȝeit fra hyme be thame like as at mare lenth is contenit in the Summoundis tharupone The said James comperand personaly And the saidis williame & andrew rychtsua And the said lady comperand be my lord dene of dunkeld & master Robert calbrath hir procuratouris with sufficient pouere publist & admittit in Jugement Master Johnne Spens prelocutour for the said James Scott producit & publist to the said schiref in Jugement our Souerane lordis lettres togidder with the schireffis precepte of summoundis direct tharupone in the said cause deuly execute & Indorsyt & Requirit the schiref foirsaid to pute the samyn to dew execucione and mak hyme to be restoryt of the fruitis & gudis contenit tharintill alegeit Spoilȝeit fra hyme wranguislye be the saidis personis & thar complicis And thane my lord dene of

dunkeld & master robert calbrath procuratouris for the said lady & prelocutouris for the saidis williame & Andrew desyrit the aith of fidelite of the said James ad litiscontestacionem quhilk was done & maid And that being done the said procuratouris alegeit the pley of the said actioune to be dependand before the officer of sanctandrois bot thai schew na document nore probacione actentik tharupone And thareftir thai proponit ane excepcione de re soluta [1] as [1] for ane parte of the said fruitis & gudis alegeand the samyn to be payit with diuers wtheris excepcionis quhilkis war declarit nocht releuand nore to be admittit agane the actioune of spoilȝe thai nowthirane grantand nore denyand the samyn nore makand litiscontestacione as the law requiryt eftir the stile of courte And thane the schiref foirsaid tendand to proceid & minister Justice in the said mater at the command of our Souerane lordis lettres foirsaidis gert call the witnes producit be the said James quhilkis war lachfully summound tharto for the probacione of his Intent Thane My lord dene & master Robert procuratouris & prelocutouris foirsaid alegeit that the said witnes aucht nocht to be resauit at that tyme because the party gat nocht thar Names in the copy of the summondis to avise apone And thane the schiref foirsaid being avisyt with his assessouris for the tyme at the Instance of the partiis assignit to thame baith the xvj day of Nouembere nixt here eftir folouand in the hour of cause as terme peremptour to produce agane the said day & place for thar persute & defence in the said mater as thai wald wse bath to tyne & wyne & of thar desir continuit the actione as it was at that tyme procedit to the said day & decernit the Names of the said witnes to be gevyn to the party & warnit the saidis partiis be thame self & thar procuratouris tharof apud acta curie And summond the said witnes in Jugement to the said day as of before & to the samyn effect for declaracione of the werite & administracione of Justice

The quhilk day the personis that past wpone the said summonicio

[1] Added above the line.

assise & Inquest war summond personalye in Jugement to compere the said xvj day Nouembere to pass wpone the assise & Inquestis for administracione of Justice wnder the panis of law Apud acta

Wemys

The quhilk day Thomas grundistoune schiref deput foirsaid gert call Alexander wemis & Thomas berclay as thai that war lachfully summond of before to heir & se cognicioune takyne wpone the occupacione of ane quarter of the ward landis pertening to the said alexander eftir the forme of the kingis lettres direct tharupone & the samyn to be put to dew execucione eftir the tenour tharof the said Alexander comperand personaly & the said Thomas beand ofttymes callit & comperit nocht the depute foirsaid gert reid the kingis lettres & thareftir tuke cognicione of the personis beand present for the tyme be the quhilkis he decretit that the said [1] thomas [1] because he broukyt ane quarter of the said ward landis sene thai war decretit to the said alexanderis sustentacione that tharfore he suld content & pay to hyme the Soume of v merkis ȝerly eftir the tenour of the kingis lettres except that ane merk suld be Rebatit ȝerly for vj merkis of annuel gevin out of the landis of logy murtho ȝerly/quhilkis war estimate to xx li land with the said annuale

43A *r* [2]

Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem virum Johannem Magistrum lindesay de petcrovy Militem vicecomitem de fiffe Dauid Sibbald de Lethame willelmum baxster de qwiltis & Thomam grundistoune suos deputatos et eorum quemlibet coniunctim et diuisim decimo sexto die Mensis Nouembris Anno domini Millesimo quingentesimo decimo octauo

The quhilk day the actioune & cause perseuit be James Scott fermourare of the kirk of disert aganis Ane noble lady

[1] Added in margin.

[2] This is an insertion, pasted in, which appears from its contents to have constituted originally the next folio of the book. Unfortunately it has been torn across, and only the upper half remains, of which the *recto* and *verso* are here transcribed.

margarete lady Sinclare Williame clerk & Andrew quhit tueching the fruitis of the said kirk & othir Soumes & gudis alegeit spolȝeit fra hyme be the saidis personis as at mare lenth is [1] contenit in the summondis tharupone & actis of courte of before Is with consent of the said James one ane parte And Williame clerk & andrew quhite & Master martine balfour procuratour for the said lady with sufficient pouere producit Red & admittit in Jugement one that wthir parte continu[i]t in the samyn forme force & effect at It now is to the ix day of decembere nixt tocum And the witnes producit be the said James summond personaly in Jugement to the said day And the partiis warnit tharof be thame self & thar procuratouris apud acta & to heire the said witnes Resauit suorne & admittyt

Quo die compromiserunt domina Comitissa de Rothaes Wemis ab una et Elizabetha Wemys Relicta quondam Johannis strang In taissis [ab altera partibus] in personis subscriptis viz Magistrum dauid spens Rectorem de flisk Magistrum thomam wemys magistrum archibald heriote dominos de culerny et cammo super singulis debatis et controuersiis et signanter super contentis in precepto vicecomitis per dictam elizabetham super dicta Comitissa Impetrato

die ix decembris Rescripto 43A *v* [2]

The quhilk day the actioune & cause movet & depending Scott betuix James scott fermourare of the kirk of disert one ane parte & Ane Noble lady margarete Lady Sinclare williame clerk & Andrew quhite [one that wthir parte] as at lenth Is contenit in the summondis the kingis lettres & actis of courte past tharupone of before was with consent of Robert lourestoune procuratour for the said James with sufficient pouere one ane parte & in his name And of Alane piote procuratour for the saidis lady williame & Andrew with pouere allegeit & Johnne Inglis tutour of tervat caucionare that thai suld hald ferme & stable in thar names one that wthir parte was continu[i]t

[1] The manuscript has *in*.

[2] See note 2 on preceding page.

in all effect & forme as It now Is to the nixt hede schiref court of fiffe to be haldin in the Tolboith of the said burgh the xj day of Januare nixt tocum & thai warnit tharof apud acta

continuatur Kay & Kadye

The quhilk day the actioune & cause movete be Thomas kay aganis Johnne cadye & Archibald tailȝeour wes with consent of party continuit to the said hed courte in forme & effect as It now is & dauid Sibbald of lethame caucionare & the partiis warnit tharof apud acta

continuatur

The quhilk day the actioune & cause movete be Emenedus gourlay aganis dauid bosuele & his complicis conteinit in the summoundis tharupone Is with consent of party continu[i]t to the said hed courte as It now is but preiudice of party & thai warnit tharof apud acta

summonicio

The quhilk day duncane Jamisone dauid Jamisone & Johnne Jamisone war summound in Jugement personaly to compeire at the said hed courte to ansuere at the instance of Johnne scott to It that he had to propone aganis thame

summonicio

The quhilk day francisk Ramsay of foxtoune was summond personaly in Jugement to compeire in the said hede schiref courte to ansuere at the Instance of dauid ramsay his brother wpone the spoilȝe of ane hors like as is contenit in the precepte maid & direct tharupone And Johnne Inglis tutour of tervat caucione

43*r*

Curia Capitalis vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem virum Johannem Magistrum lindesay de peterovy militem dauid Sibbald de lethame Andream lundy de Stretharlye et Thomam grundistone eius deputatos die xj° mensis Januarii Anno domini millesimo quingentesimo xviij°

Nomina absencium

p s Sawling
p blak sauling
p s kirknes
p s balcormo

p s bordland sauling
p Rossith
p s clesche
p s kynnescoute
p s louchorschire eistir
p glasmonth
p s wemis eistir
p s disert personaris al except george erth
p kincrag
p Rerais
p s kelle
p s hilcarny terwat
p s dalgathie lord saultoune
p s petdoneis Multrare
p s petdoneis portewis
p s petdoneis bruce
p s petdoneis lichtoune
p s balgonoware
p s balneile
s Cowle
p s Eistir touch
p s Colsy moncrefe
p s Ardre Ramsay of lawis

Quo die Andreas forestar presentatus Intratus & Juratus Secta [est] in sectatorem curie pro terris de westir touch per dominum eiusdem Johannem mailuile

Quo die Robertus Reid presentatus receptus & Juratus Secta [est] in sectatorem curie pro terris de glendowky per Robertum aytoune dominum earundem

Quo die Dauid balfour de ballindone Judicialiter elegit Curatores curatores viz. Magistrum dauid Seitoune Rectorem de fethircarne & Johannem Seitoune de balbirnye coniunctim & diuisim usque ad suam etatem legitimam absque Reuocacione et Judex interposuit suam autoritatem ordinariam ad eosdem et obligatus est per manus sue extencionem in contrarium nullatenus deuenire

Quo die Continuatur Sibbald & auenare penes clameum unius equi ex parcium consensu ad x^{um} februarii proxime aduenturum et ad probandum hincinde et dauid Sibbald predictus deputatus plegius pro productione equi continuatur

Quo die breue Inquisicionis cristine Rettray continuatur ad curiam capitalem proximam post pascha de consensu parcium viz mulieris Jacobi Sandilandis de Wedderisby & Roberti Arnot de wodmylne continuatur

Quo die willelmus baxster de qwiltis constituit dauid grundistone de glaslie suum procuratorem in omnibus procurator

actionibus et precipue ad prosequendum Robertum aitoune et suos complices de bonis contentis in quodam precepto ab eodem ut asseruit spoliatis & promisit Ratum & gratum

Curia vicecomitatus de fiffe Tenta in pretorio burgi de Cupro per Thomam grundistoune vicecomitem deputatum de fiffe die xv^to^ mensis Januarii prescripti

Nomina assise

florymond martyne of giblatstoune
Williame baxter of the qwiltis
Thomas oliphant at kelle mylne
Thomas strang in eistir petcorthie
Williame doyt in kynbrachmont
Robert dick thare
Thomas louthane thare
Robert gregore thare
Dauid logye
Williame henrisone in giblatstoune
Johnne brane thare
Alexander henrisone thare
Petir Dausone
Alexander pettillo in eistir petcorthie
Thomas Watsone in balgormo
Alexander murtho in bellistoune
Johnne fermour thare

Quo die Walterus robertsone in giblatstoune Indictatus & accusatus de furtiua capcione duarum ouium de fundo terrarum de reras ex confessione Judiciali et de comuni furto qui negauit et assumpsit se ad predictam assisam qui per os Willelmi baxster cancellarium eiusdem condampnatus fuit ad mortem et per Judicium curie suspensus

43*v* Curia vicecomitatus de fiffe Tenta In pretorio burgi de cupro per Nobilem virum Johannem Magistrum lindesay de petcrovy militem vicecomitem de fiffe dauid Sibbald de lethame & Thomam grundistone ac dauid grundistoune suos deputatos die x^o^ mensis februarii Anno domini m^o^ v^c^ xviij^o^

Nomina Inquisicionis et assise

Alexander borthuik of gordonishall
Adame lindesay of dowhill
Dauid Sibbald of lethame
Johnne Inglis of terwate
Alexander Narne of pursk
Dauid grundistoune of glaslie
Johnne kynnynmont tutour of craghall
francisk Ramsay of foxtoune
Dauid grundistoune of kingask
Johnne Spens of lethaliand
Williame the haye of balbethie
Alexander schethome of caskelpye
Thomas ballingal of the Riggis
Hew farny
Johnne pantre burges of falkland

The quhilk day the actioune & cause movete betuix Sibbald & Auenare tueching the clame of ane hors as Is contenit in the summoundis tharupone is with consent of party continu[i]t to the vij day of merche nixt tocum & dauid Sibbald of lethame souerte for andro sibbald for [h]is entra & for the productione of the said hors at the said day as terme peremptour continuatur

The quhilk day Thomas forestar of Strethanry baillie & commissar to the lard of balgony with sufficient commissione Red & admittit in Jugement Replegiate the actione clame & persute proponit be the lady of dovene aganis Thomas balfour of dovene hir sone contenit in ane precepte of summoundis tharupone to the said lard of balgonyis court to be haldin at balgony the xxiij day of merche nixt tocum And the said Thomas forestar pleige & culrach to the schiref to do Justice in the said actione all except the Spoilze contenit in the said precepte alegeit dependand before the officer of sanctandrois And has assignit the said day to the said parteis to the samyn effect And protestit in the Name of the said lard of balgony that quhat the schiref of fiffe or his deputis did in the said mater suld turne hyme his heretaige nore priuileige or aris to na preiudice replegium

murray The quhilk day [ ] [1] procuratour to schir andro murray of kippo knyt & the schiref foirsaid askyt payment at Johnne Inglis of terwat of the malis & deuiteis of the landis of kippo contenit in the precept tharupone eftir the tenour of the samyn & the said Johnne tuke apone hyme to pay the samyn or prefe hyme payit the vij day of merche nixt here eftir folouand

amerciantur The quhilk day & courte It wes fundin be the said assise & deliuerit be Adame lindesay of dowhil chancellare of the said assise that francisk Ramsay & dauid Ramsay his brothir had wranguslye distrowbillit hurt & draune bloid Ilkane of wtheris and war baith in the wyt tharof & dome gevyn tharupone & the saidis francisk & dauid baith amerciit tharfore

quit The quhilk day Duncane Jamisone & dauid Jamisone his sone war maid quit be the said assise of the wyte of bloid & spoilȝe alegeit done to Johnne scott

protestacio Quo die Johannes kynnynmont de craghal tutour protestatus est pro expensis contra michaelem fortoune

44r Curia vicecomitatus de fiffe Tenta in pretorio burgi de Cupro per honorabilem virum [2] georgeum strang de balcasky et Thomam grundistoune vicecomites deputatos de fiffe die xxijo mensis februarii Anno domini Millesimo quingentesimo xviijo

Nomina inquisicionis et assise

Robert Arnote of Wodmylne
Dauid grundistoune of glaslie
Francisk Ramsay of foxtoune
Alexander louchmalony of that Ilke
Alexander schethome of caskelpye
Dauid pitblatho of that Ilke
Alane Jamisone burges of couper
Alexander cristisone
Dauid andersone
Alexander Wemys
Petir huhounsone
Johnne gourlay in lundoris
Clement moreis

[1] Blank in manuscript.

[2] So the manuscript.

Qui Jurati dicunt quod quondam Alexander lothreisk de orkye pater Johannis Lothreisk latoris presencium obiit wltimo vestitus et sasitus ut de feodo ad pacem et fidem Supremi domini nostri Regis de uniuersis et Singulis terris de orkye cum pertinenciis Jacentibus in baronia de westir lothreisk Infra vicecomitatum de fiffe necnon de una quarta parte omnium et Singularum terrarum de eistir lothreiske cum suis pertinenciis Jacentium infra predictam baroniam et vicecomitatum Et quod predictus Johannes presencium lator est legitimus et propinquior heres eiusdem quondam Alexandri patris sui de predictis terris cum pertinenciis et quod est legitime etatis Et quod predicte terre de orkye et quarte partes[1] de lothreisk eistir cum suis pertinenciis valent uunc per annum Quadraginta marcis monete currentis scocie Et valuerunt tempore pacis v li Et quod tenentur in capite de Johanne Seitoune de lothreisk barone baronie eiusdem per seruicium Warde et Releuii Et quod nunc existunt in manibus predicti Johannis tanquam baronis baronie de lothreisk vestir racione warde ob non etatem heredis legitimi Jus suum hactenus minime prosequi valentis ad spacium quinque annorum aut eocirca In quorum etc

Quo die magister Johannes Spens procurator o nomine protestacio Roberti aytoune de dunmour Johannis aitone Johannis fullartoune Andree henrisone/Alexandri Spens pro seipso dauid Sand andree Dan3haell & dauid Stanehous cum potestate valida Judicialiter porrecta perlecta & admissa publice et solemniter protestabatur quod ex quo predicte persone fuerant summonite ad hunc diem ad respondendum ad Instanciam willelmi baxster super quadam actione intentate in quodam precepto vicecomitis de fiffe et nulli comparuerunt ad arguendum ve prosequendum ipsos nec eorum alique/et quod parati fuerant ad respondendum parti quod poterant habere suas expensas priusquam compulsi fuerant ulterius ad respondendum parti in dicta curia et de nouo summoniti

[1] So the manuscript.

44*v* [1] Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem virum Johannem Magistrum Lindesay de petcrovy militem vicecomitem de fiffe Dauid Sibbald de lethame Thomam grundistoune & Johannem auchmouty eius deputatos die vij° mensis marcii Anno domini Millesimo quingentesimo decimo octauo

murray The quhilk day It was decretyt be the schiref foirsaid in Jugement that Johnne Inglis of terwate suld content & pay schir andrew murray the Malis & fermes acclamet be hyme apone the said Johnne as souerte tharfore of before And in the mentyme schir andrew murray & his lady suld mak faith wpone the hors gettin be thame & the avale & price of hyme eftir the forme of ane article to be gevyn in tharapone & quhat that war fundin Releuant to be alowit in the payment of the foirsaid malis of the termes bigane

ballingall & fedillare The quhilk day the chartir of lithquoislandis pertening to James fedillare & his wif producit & scheuine In Jugement was of the daite apud Edinburgh x° die Nouembris anno xj° et Regni Regis xxiiij^to^ And the chartir of the said landis producit be thomas ballingall of the Riggis of his gift tharof was of the daite Apud Edinburgh die quinto mensis Augusti anno xj° et Regni Regis xxiiij^to^ ut supra

ballingall The quhilk day the schiref foirsaid decretyt the half toft stede of lithquoislandis clamete be thomas ballingall to pertene to the said Thomas & Reseruit the modificacione of avale & profyt tharof to the schiref foirsaid hyme self because thar was na cleire probacione of the samyn

baxster The quhilk day in the actioune & cause of spoilze perseuit be williame baxster of the qwiltis aganis Robert aytoune & his complicis contenit in the summundis tharapone . . .[2]

The quhilk day williame nychol constitut dauid gregore procuratour for hyme to persew williame lausone duelland in disert anent the persut of ane coppir cathill [3] like as is

[1] *Quo die Willelmus baxster de qwiltis* deleted here.

[2] Entry incomplete.

[3] Kettle.

contenit in ane precept of summondis direct tharupone and held wp his hand to hald ferme & stable

The quhilk day schir williame scott 3o[u]ngar lard of baluery become souerte & lauborgh to the schiref in Jugement for patrik kincragy & the said patrik oblist to freith hyme tharof that patrik wallace suld be harmeles & scathles of hyme & all that he mycht lett bot as the [law] wald wnder the panis of law plegium Juris

The quhilk day the actioune & cause perseuit be Johnne Sibbald in scony aganis alexander schethome of caskelpy contenit in ane precepte of summoundis tharapone Is with consent of party continu[i]t to the xxiiij day of merche foirsaid wnder hoip of concord continuatur

Nomina assise et Inquisicionis

Thomas forestar of Strethanrye
Alexander Sibbald of rankelour
Robert Arnot of Wodmylne
James Ramsay in petgorno
Alexander Schethome of caskelpye
James leslie in petkevye
Williame baxster of the quyltis
Dauid grundistoune of glaslye
Dauid balfour in lalethyne
Thomas ballingal of the Riggis
Alexander balcanquoll of that Ilke
James balcanquoll
Alexander bannathie

45r

The quhilk day williame patoune was folowit be Johnne kynnynmont tutour of craghall & accusyt of the maisterfull stouth of corne furth of the berne [1] 3hard [1] of craghall at diuers tymes And of the maisterfull stouth of ane kow furth of the Murehowsis of gladny And of the thiftuis steling of aucht scheip one ane nycht furth of the Manis of craghali And als of commoune thift the quhilkis thift & crimes the said williame denyit alwtraly & tuke hyme to god & to the knaulaige of the said assise the quhilkis being Sworne Removit & past of courte & Reinterit & deliuerit patoune

[1] Added above the line.

all in ane woce but wariacione or discrepans be the mouth of Thomas forestar of Strethanry chancellare of the said assise that the said williame patoune was fundin qwitt clene & Innocent of all the foirsaidis thift & crimes & had nowthir art nore parte of ony thing tharof wpone the quhilkis the said williame desyrit & askyt Testimoniel wnder the Jugis Sele quhilk was grantit to hyme In Jugement etc

citacio

The quhilk day Johnne kynnynmont Tutour of craghall was summond warnit & chargeit in Jugement personaly apprehendit be the schiref foirsaid to compeire before hyme or his deputis ane or ma in the nixt schiref court of fiffe to be haldin in the said tolboith the xxiiij day of the moneth of merche foirsaid in the hour of cause to ansuere at the instance of schir Robert child chapellane wpone the poyntis & articlis contenit in the kingis lettres thar present & red before hyme in Jugement & to heire & se Cognicione be takin in the actioune contenit in the saidis lettres & the samyn be put to dew executione eftir the tenour tharof wnder the panis of law with Intimacione as efferit

45*v* Curia vicecomitatus de fiffe Tenta In pretorio burgi de cupro per Nobilem virum Johannem magistrum Lindesay de peterovy militem vicecomitem de fiffe dauid Sibbald de lethame Eduardum auchtirlonye Willelmum Strageth willelmum cokburne & Thomam grundistoune suos deputatos et eorum quemlibet etc xxiiij^{to} die mensis marcii Anno domini m^{o} v^{c} xviij^{o}

The quhilk day The scirref foirsaid tuke cognicione apone the possessioune alegeit had be schir Robert child chapellane of the landis contenit in the kingis lettres & fand the samyn sufficient & decernit hyme to Jois & brouk the samyn eftir the forme of his infeftment of the samyn

amerciantur

The quhilk day george claphane the Sone & aire aperand of Johnne claphane of claslogye Alexander Ramkelour &

Symone daw war ofttymes callit & comperit nocht as thai that war summond to ansuere at the instance of alexander gourlay of southeld & Johnne dalglesche for the allegeit wranguis hurting distroubilling & bloid drauing of thame & tharfor war amerciit in the wnlaw of court for thar absence & dome gevyn tharupone

The quhilk day schir dauid huhonsone chapellane in the Name of the master & brether of sanct paulis werk protestit that quhat war done be the schiref or his deputis in that court tueching thar tennentis & inhabitantis [of] thar landis of bello mylne & wchtirogall & thar priuilege & fredome tharof suld nocht hurt thame nore be preiudiciale to thame in ony tyme tocum bot that [thai] mycht use thar ald priuilegis but interrupcione or pley ochtirogall

The quhilk day the actioune & clame betuix Johnne Sibbald of scony & Alexander schethome of caskelpy Is be baith the saidis partiis Referrit to Dauid sibbald of lethame to deliuer tharupone & the partiis oblist & suorne to abide at his deliuerance Sibbald

The quhilk day the schiref foirsaid avisyt with the baronis & assessouris decretyt & decernit that Johnne claphane of claslogy & Isobell Strang his spous did wrang in the postponing & deferring to mak payment to dauid grundistoune of glaslye the thridparte of the Soume of xxvj merkis/quhilkis extendis to viij merkis [1] viij s̃ x đ ½ đ quhilk the said dauid laid doune for the composicione of the landis callit the lauis with the pertinentis liand within the schirefdome of angus quhilk pertenit to wmquhile walter strang of petcorthye of the quhilk he schew actentik quittance of the payment tharof & ordanit hyme & the said Isobell his Spous to content & pay the samyn to the said Dauid within the terme of law & preceptis to be direct tharapone to distrenȝe tharfor gif neid war in the forme of law Strang

The quhilk day lauren[c]e lummisden in wchtirogall amerciatur

[1] *viij s̃ viij đ*, originally *vj s̃ viij đ*, has been deleted here.

ofttymes callit & comperit nocht as he that was lachfully summond to this court to ansuere at the Instance of Archibald millare in the hospitale mylne for the distroubilling & hurting of hyme [was amerciit in the unlaw of court] & dome gevin tharupone

amerciantur Quo die Robertus kincragy in strethmiglo Johannes kincragy alexander kincragy & Jacobus kincragy filii dicti roberti amerciantur per Judicium curie quia non comparuerunt ad instanciam patricii walace tenore precepti

[5v [1]] the last day of aprill the ȝere of god v^c and xix ȝeris Androw leyrmonth citiner of sanctandrois Is becumyn souerte of lawborrow [2] for James leyrmonth sone to dauid leyrmonth provest of sanctandrois that Robert [3] of dalglesche & the remaner of the personis complicis contenit in the kingis lettres salbe harmles and skaithles of the said James eftir the forme of the said lettres under the pane [4] contenit in the samyn lettres & elikwis wilȝeame carstaris Is becumyn souerte for the said andro leyrmonth & thomas dudingstone for dauid leyrmonth that the said personis salbe elikwis harmles & skaithles of thame eftir the forme of the saidis lettres be for thir witnes master James wischert of pittarrow Justice clerk Johnne wischert James auchinlek Johnne scheves of kembak wilȝeame auchinlek & diuers utheris

[5] Souerte & lawborrouis of Robert dalglesche

46r Curia Capitalis vicecomitatus de fiffe Tenta In pretorio burgi de cupro per Nobilem virum Johannem Magistrum Lindesay de petcrovy militem vicecomitem de fiffe Dauid Sibbald de lethame Andream lundy de Stretharlie & Thomam grundistoune suos deputatos et eorum quemlibet

[1] Slip pasted in. The hand is not that of the clerk of court.
[2] *that Johnne* deleted here.
[3] *Johnne* deleted and *Robert* added above the line.
[4] *of ane hundreth merkis* deleted here.
[5] Written in the hand of the clerk of court.

die quarto [*tercio* ?] mensis Maii Anno domini m° Quingentesimo decimonono Sectis vocatis curia affirmata etc

Nomina absencium amerciatorum

S p bordland of Sauling
S p Drone
S p Petconnoquhye
S p Cleische
S p kynnescout
[1] p Crambeith
S p louchorschire westir
[1] p Wemis westir
S p Lord Sinclare for his landis of disert
S p Lard of Wauchtone for disert
S p kyncrag
S Rerais
S p ballindone
S p balneile
S p eistir touch & bogye
S p Sauchope
S p colbakye

Nomina assise et Inquisicionis

James Sandelandis of crovye
George Ramsay of clattye
Williame Scott kny[t] etc
Williame monypenny of petmolie
Johnne Seitoune of Lothreisk
Johnne Inglis of tervatt
Thomas berclay of the rynd
Alexander Sibbald of rankelour
Francis Ramsay of foxtoune
Dauid tullo of hilcarnye
Johnne Rankelour of that Ilke
Alexander Lindesay of Cavill
George Erth of Smethtoune
Alexander schethome of caskelpye

The quhilk day the actione & cause perseuit be margrete Sinclare ald lady of balmouto aganis dame alisoune sandilandis & dauid forbas hir Spous contenit in ane precepte of summondis & the kingis lettres past tharapone Is with consent of party be thame self & thar procuratouris master Thomas Wemys & master Johnne Spens continu[i]t to the xiij day of Maii foirsaid in all effect & forme as It now is but preiudice of party & thai warnit tharof apud acta and the said dauid caucionare for the said dame alisone that scho sal hald ferme & stable etc

[1] *S* deleted.

plegium The quhilk day Archibald Ramsay become souerte to the schireff in Jugement for the entraes of roberte Styrk in wchtirmukty quhen & quhar he war chargit tharto

plegium The quhilk day Robert poury become souerte siclike for patrik wilsoune & his wiffe & als for cristiane stirk

abircrummy Qui Jurati dicunt quod quondam Magister Willelmus abircrummy pater Alisone abircrummy Latricis presencium obbiit vestitus et sasitus ut de feodo ad pacem & fidem Supremi domini nostri Regis de uniuersis & Singulis terris de balcormo cum suis pertinenciis Jacentibus Infra vicecomitatum de fiffe Et quod predicta Alisona est legitima et propinquior heres eiusdem quondam Magistri Willelmi sui patris de predictis terris cum pertinenciis Et quod est legitime etatis Et quod prescripte terre cum pertinenciis valent nunc per annum xx^{ti} marcis monete currentis Scocie Et quod valuerunt tempore pacis quatuor lib. Et quod tenentur in capite de supremo domino nostro rege per seruicium warde et releuii Et quod una dimedia pars dictarum terrarum cum pertinenciis nunc existit in manibus Supremi domini nostri regis antedicti[1] racione warde et non introitus heredis ad eandem per decessum dicti quondam M[agistri] willelmi Et quod altera dimedia pars earundem nunc existit in manibus Jonete scrimgeour matris predicte Alisone Racione coniuncteinfeodacionis quam habuit de eadem per decessum eciam dicti M[agistri] willelmi ob non etatem heredis legitimi Jus suum hactenus minime prosequi valentis seu Recuperantis Ad tempus et spacium xx^{ti} annorum [2] viz ad spacium xiiij annorum et non introitus ad spacium vj annorum elapsorum [2] etc aut eocirca In quorum etc

46*v* die iiij^{to} mensis Maii Anno xix^{o}

Qui Jurati dicunt quod quondam Dauid wallangis de pettedy pater Johannis walangis latoris presencium obiit ultimo vestitus et sasitus ut de feodo Ad pacem et fidem

[1] *per* deleted here. [2] Added in margin ; *elapsorum* repeated.

Supremi domini nostri Regis de uniuersis et singulis terris de pettedy westir cum pertinenciis Jacentibus Infra vicecomitatum de fiffe [1] et constabulariam de kingorne [1] Et quod predictus Johannes presencium Lator est legitimus et propinquior heres eiusdem quondam dauid sui patris de predictis terris cum pertinenciis Et quod est legitime etatis Et quod prescripte terre cum pertinenciis nunc valent per annum octo lib monete currentis scocie Et quod valuerunt tempore pacis trigenti solidis Et quod tenentur In capite de Supremo domini nostro rege per seruicium albefirme soluendo unum ď argenti annuatim nomine albefirme si petatur Et quod nunc existunt In manibus sue serenitatis Juste per seipsum per decessum dicti quondam dauid ob defectum heredis legitimi Jus suum hactenus minime prosequentis a spacio et tempore xij annorum et trium mensium aut eocirca In quorum fidem etc

The quhilk day the actioune & cause perseuit be george harmane in creigh aganis Wilzeame ramsay in creigh & Alexander Spens in dunbulg is be the schiref with consent of party continu[i]t to the x day of Junii nixt tocum in forme & effect as it now is & [2] Thomas berclay of the Rynd souerte for the entraes of thame the said day viz of villiame ramsay [3] & alexander [3] foirsaid & the partiis warnit tharof & the witnes in elikwis apud acta & the said george for hyme self his hand & his gude continuatur

The quhilk day the actioune & cause perseuit be Alexander gourlay of Southeld & Johnne dalglesche aganis Johnne claphane of claslogy george claphane his sone & aperand aire Alexander rankelour Symone daw & [ ] [4] strathachyne serwand to dauid leremonth provest of sanctandrois as at lenth is contenit in the summoundis tharupone & our Souerane Lordis lettres Impetrate in the samyn [5] causis ar [5] be the schiref foirsaid for debilite of courte & wthir causis moving hyme continu[i]t & put in continuatur

[1] Added in margin. [2] *David* deleted here. [3] Added above the line.
[4] Blank in manuscript. [5] So the manuscript.

respect in forme & effect as [1] thai now ar [1] to the x day of Junii nixtocum with new Intimacione tharapone as efferis

olifere

The quhilk day In the actioune & cause perseuit be mariory pousta the Relict of umquhile Thomas schethome aganis Robert olifere duelland in the Drwme tueching the allegeit wrangus withhalding fra hir of certane cornis wittale & male of the landis of balcelly as at lenth is contenit in ane summoundis tharapone the partiis foirsaid comperand personaly in Jugement the said Robert allegeit the samyn payit & tharapone producit certane witnes to the noumer of thre personis quhilkis war lachfully summound tharto & in the presens of party Resauit suorne and admittit be the quhilkis It was clerly preuit that the said Robert had payit the foirsaidis cornis fermes wittualis & malis of the said landis al & sindry aucht & clamet tharof be the said mariory & tharfor was absoluit of hir said clame & peticione for euir

protestacio

Quo die dauid berclay de Culerny balliuus domini abbatis & conventus monasterii de lundoris protestabatur pro priuilegio eiusdem domini abbatis & conventus

procuratour

Quo die marioria pousta relicta quondam Thome schetome Judicialiter comparens constituit Irreuocabiliter dauid gregour suum procuratorem cum potestate substituendi perdendi & lucrandi in omnibus suis actionibus causis & querelis & precipue ad prosequendum cristianam kilgour in balquhombry & Johannem tod in mekil balquhombry super iniustis detencionibus ab ipsa de duabis ȝouis argentatis et promisit Ratum & gratum in meliori forma habentem etc

procuratour

Quo die dauid kynnynmonth de eodem & Johannes eius filius constituerunt dauid gregour burgensem cupri suum procuratorem [2] in omnibus actionibus & precipue ad prosequendum Robertum atkyne super contentis in precepto summonicionis desuper fulminato et promiserunt Ratum &

[1] So the manuscript.

[2] The manuscript has *suos procuratores*.

gratum in meliori forma cum potestate perdendi & lucrandi

Respect [1] 47r

James be the grace of god king of scottis to all & sindry our officiaris Jugis & ministeris of law baith spirituale & temporale liegis and subditis quhome it effeiris quhais knawlege thir our lettres sall cum greting Forsamekle as our [2] souerane [2] louit cousinguas margaret lady sinclere at the command of our derrest cousing the gouernour is now laitly passit to the Ilis of orknay & schetland for the inbringing of our malis proffittis and dewiteis aucht to ws of the saidis Ilis of the termes bigane Tharfor and for certane wtheris caussis mowing ws & our said derrest Cousing wit ȝe ws to haif respitt and be thir our lettres in the law & by the law specialie respittis our said cousinace and all & sindry hir familiaris seruandis [all actionis] mouit or to be mouit aganis our said cousinace hir familiar seruandis propir tenentis seruandis & gudis movable & unmovable and all actionis clames caussis & querelis quhatsumeuir mouit or to be mouit aganis our said cousinace hir familiar seruandis propir tenentis quhill the tyme of hir retournyng agane fra the saidis Ilis & viij dayis thareftir Quharfor we charge ȝou straitlie & commandis ȝou all & sindry our officiaris Jugis and ministeris of Justice and liegis and subditis propiris tenentis & subditis foirsaidis that nane of ȝou tak wpone hand to do or actempt ony thing incontrar or breking of this our speciale respect in ony wis during all the tyme of the samyn dischargeing ȝou all & sindry our officiaris Jugis and ministeris of law liegis and subditis foirsaidis present & tocum and ȝour deputis of ȝour officis in that part be thir our lettres Gewin wnder our signet at sanctandrois the xxiiij day of aprile and of our regnne the thrid ȝeir [24 April 1516]

decimo die mensis maii anno xvj^to

Till all & sindry quhais knawlege thir present lettres

[1] Respite.

[2] This appears to be deleted.

sall cum greting in god euirlesting sene neidful & meritable it is to bere lele & suthfastnes witnessing to the werite and namlie quhar the occultacione tharof may gener or do preiudice to the innocent Thruc it is that I williame bronc of colstone makis it knawin to ȝour uniuersiteis that upone the xx day of the moneth of august in the ȝeir of god Jm vc & xiij ȝeiris I passit personalie to the landis of otterstone with thar pertinence pertening to me in heretaige liand within the schirefdome of fiffe and thar at the principale chemes [1] of the samyn I gaif stait & possessione of all & haile the saidis landis of otterstone with thar pertinence to Andro cant burges of abirdour & certane actournay of williame brone my sone naturaile in lifrent for al the tyme of the liff of the said williame my sone and eftir that the said lettir of actournay of our souerane lordis chapell wnder the quhit wax being thar sene & opinlye red I inducit & westit the said Andro as actornay for the said williame in actuale reale & corporale possessione of the said landis be tradicione of thak & tre as the maner is in sic caissis eftir the forme & tenour of the chartir maid be me wnder my propir sele til the said williame tharupone and this to al & sindry quhame it efferis I mak it kend be thir my present lettres of testimoniell In witnes of the quhilk thing to thir my present lettres subscriuit with my hand my propir sele is affixt at abirdour ȝeir and day befoir exprimit before thir witnes dauid fyne Johne balrame Johne murtho & Alexander brone with wtheris diuersis

47*v* Dux pro domino de balfour

We wnderstandin that our louittis Johnne betoune of balfour & Archibald betoune brethir ar corpolent in thar personis that thai ar nocht able for travale in verefar without danger of thar personis We tharfore grantis & gevis licence to the saidis Johnne & Archibald be thir our letteris to Remane at hame fra all our Souerane lordis & ouris weris ostis assemblais wappinscheuingis within the

[1] *caput* or chief messuage.

Realme & without & pardonis & dischargis thame tharof during the space of ane 3ere nixt eftir the date herof And als we will & grantis that the foirsaidis Johnne & Archibald sal Incur na danger tharthrow in thar personis landis or gudis in ony wis during the said tyme Subscriuit with our hand At Edinburgh the last day of Septembere The 3ere of gode J^{m} v^{c} & xv 3eiris

[1] Sed quod non est Immediate successurus Ipsi A si Ipsum A contigerit infata decedere Quia Idem A habet fratres & sorores ex eisdem patre et matre genitos et procreatos sibique successuros virtute tamen acti parliamenti super tutela confecti dictus H Tutor legitimus prefati A esse reperitur In quorum etc [1] Nota breue tutorie

Respect domine Sinclare

James be the grace of god king of scottis To all & sindry o[u]r officiaris Jugis and ministeris of law baith speretuall and temporall liegis and subdittis quhome It efferis quhais knawlege thir our lettres sal to cum greting Forsamekle as our louit cousinace margaret lady sincler at the command of our derrest cousing the gouernour Is now laitlie past to the Ilis of orknay & schet land for the Inbringing of our malis proffittis and dewiteis aucht to ws of the saidis Ilis [2] of the termes bigane Tharefor and for certane utheris causis mouing ws & our said derrest cousing Wit 3e ws to haue respit & be thir our lettres in the law & by the law speciale respittis our said cousinace and all and sindry hir familiaris seruandis propir tennantis seruandis and gudis mouable and unmouable and al actionis clamys causis & querellis quhatsumeuir mouit or to be mouit aganis our said cousinace hir familiar [3] seruandis propiris tennentis quhill the tyme of hir raturnyng agane fra the saidis Ilis and viii dais thareftir Quharfor we charge straitlie & commandis 3ou all & sindry our officiaris Jugis and ministeris of Justice and liegis & subditis

[1] A fragment. Evidently the form or style of the brieve of tutory.
[2] *of orknay* deleted here.
[3] The final *is* deleted.

forsaidis that nane of ȝou tak upone hand to do or attempt ony thing Incontrair or breking of this our specialc respit in ony vise during all the tyme of the samin dischargeing ȝou all & sindry our officiaris Jugis and ministeris of law liegis & subditis forsaidis present and to cum and ȝour deputis of ȝo[u]r officis in that part be thir our lettres Gevin undre our signete at Sanctandrois the xxiiii day of aprile and of our ringnne the thrid ȝere

[24 April 1516]

xxiij° Septembris Anno xviij° coram testibus domino Johanne balfour capellano Dauid Scott et willelmo scott burgensibus de Innerkething [ ][1] scrimgeour filio Johannis scrimgeour de miris clauigeris domini Regis

Johannes Scrimgeour clauiger predictus per manus sue extencionem deuenit plegius pro Jacobo Scrimgeour constabulario de dunde pro summa iiij^{c} xx lĩb usualis monete scocie pro firmis terrarum de hilfeild southbordland marisland et molendinis aquaticis et ventiticis earundem iuxta tenorem precepti capelle regie vicecomiti et balliuis suis de fiffe desuper directi

48*r* Curia vicecomitatus de fiffe Tenta In pretorio burgi de cupro per nobilem virum Johannem Magistrum Lindesay de peterovy militem vicecomitem de fiffe Eduardum auchtirlony Johannem rankelour & thomam grundistoune suos deputatos decimotercio die mensis Maii Anno domini Millesimo quingentesimo decimonono

The quhilk day In the actione & cause persceuit be margrete Sinclare auld Lady of balmowtho Aganis Alisoune Sandilandis secund Lady of terce of balmowtho & dauid forbas soune & aperand aire of williame forbais of reras kny^{t} hir spous tuecbing the wranguis wptakyng of the proffitis of the thridparte of the landis of balglellye eistir with the mylne of the samyn and pertinentis be the space of thre ȝeris Last bigane before the ȝere of god J^{m} v^{c} &

[1] Blank in manuscript.

xviij ȝeris extending ȝerlie be the said space to xiij ℔ of quhete & ane half/Ane chaldir vj ℔ of mele & tua merkis of siluer ȝerlie of the Milne of balglelly foirsaid with wtheris proffitis as is allegeit Like as at mare lenth is contenit in the kingis lettres & precepte of summondis direct & past tharapone The partiis foirsaid comperand viz dauid boiswell of balmowtho caucionare for the said margrete Maisteris abrahame crechtoune & Johnne Spens hir procuratouris one ane parte And the said Alisoune Sandilandis & dauid forbas hir Spous one that wthir parte personaly In Jugement thar Richtis Resonis & allegacionis being producit red herd sene & considerit The schiref foirsaid with his deputis be assent & consent of bath the saidis partiis & thar procuratouris foirsaid decretis & deliueris that the said Alisone Sandilandis and dauid hir spous for his intraes sal content & pay to the said margrete hir procuratouris & factouris ix chaldir & ix ℔ of wictuale for the first terce of the landis of balglelly & mylne of the samyn takyne wp be thame in the ȝeris of god J^{m} v^{c} xv xvj & xvij togidder with tua merkis of Siluyr ȝerlye be the said Space of iij ȝeris And for the payment of the saidis wittualis & siluyr of the said thre ȝeris the said Alisoune & dauid hir spous sal mak & gefe to the said dauid boiswell Ane sufficient lettir of bailȝery & pouere to lyft Raise & wptak all the fermes & vittallis being In the tennentis handis of the akirris of land in Kingorne extending to liiij ℔ & to poynd & distrenȝe tharfor gefe neid be And that to be allowit & defalkit in the said iij ȝeris wictualis safer as thai extend And samekle as Restis & Remanis wnpayit of the said thre ȝeris vittalis to be payit be the saidis alisone & dauid hir Spous In money viz x ℥ for Ilke ℔ And gife ony of the liiij ℔ wantis of the wictuale & fermes of the said akirris the saidis Alisone and dauid sal ansuere tharfor & pay x ℥ for Ilke ℔ In the payment of the quhilk thar sal be allowit to the saidis Alisone & dauid hir Spous the Soume of x ℔ of thre termes malis last immediate bipast before the daite of this writt of the landis of balglelly & the mylne of the sadillaredene pertening to the said Alisone be resoune of terce exceptand samekle as

may be preuit payit tharof And als thar salbe allowit & rebatyt in the said payment for the said margretis parte of the taxt of balglelly xxxvj ℈ viij ₰ quhilk the said Alisone payit for hir togidder with xviij ℈ & viij ₰ for williame mailuillis gersomme of the said margretis parte of bennachtye the takkis tharof set before this dait being kepyt & xxxv ℈ & viij ₰ of the gersome of dundownald & hospitale to be allowit & defalkyt rychtswa in the said payment the takkis tharof set be the lard of balmowtho before this dait being elikwise kepit And the terce of the annuallis clamet within the burgh extending to xlvj ℈ viij ₰ is be baith the saidis partiis referryt the clame tharof to the lard of baluerye Reserwand to baith the saidis partiis all wthir clames & debatis quhilkis ar nocht contenit in this decrete the persute & defence tharof & in speciale the warandice of the said margretis terce of the landis of balglelly & mylne of the samyn clamet be hir agane the said dauid boiswell of balmowtho And hereapone preceptis decernit to be direct for completing & fulfilling of al the premissis In dew forme as efferis

plegium Upone the [1] xxiiij day of Maii the ȝere abone writyne I Johnne master lindesay of peterovy knyt schiref of fiffe at the command of our Souerane lordis lettres tuke williame scot of baluery knyt sicker souerte for schir Johnne kilgour & James his brothir dilatit of art & parte of the slauchtir of wmquhile James gourlay in catill to compeire before the Kingis Justice at day & place contenit in the said lettres to wnderly the law for the said crimes wnder the panis contenit in the said lettres

48*v* Curia vicecomitatus de fiffe Tenta In pretorio burgi de cupro per Nobilem virum Johannem Magistrum lindesay de peterovy militem vicecomitem de fiffe dauid Sibbald de lethame Andream lundy de stretharlye & Thomam grundistoune suos deputatos die x° mensis Junii Anno domini millesimo quingentesimo xix°

The quhilk day In the actione & cause movete be

[1] *the* repeated.

margrete hay & williame touris hir spous aganis henry stewarte of rossith tueching the allegeit wranguis spoilȝeing of certane scheipe furth of [the] landis of balmole as at Lenth is contenit in ane precepte of summoundis tharapone the partiis comperand personaly in Jugement It was allegeit be the said henry that he requiryt the copy of the summoundis at the officiare And gat It nocht & that tharfor he aucht nocht to ansuere because he had na knawlage nore avisment quharapone he suld ansuere And thane the Jugis being avisyt with thar assessouris decernit the copye of the precepte of summondis thane in Jugement to be gevyne to the said henrye And assignit to hyme the v day of Julii nixt eftir folouand to compeire in the tolboith foirsaid before the schiref or his deputis ane or ma in the houre of cause to ansuere at the Instancis of the saidis margrete & williame wpone the poyntis & articlis contenit in the said precepte & eftir the tenour of the samyn as terme peremptour And opynly in Jugement summound warnet & chargeit the said henry tharto/viue vocis oraculo/ And commandit & chargeit the said henry in the kingis Name & his that he suld nocht Intromit with the ground of the said landis of balmole Nore na gudis being tharupone nore mak nane Innouacione tharintil in the mentyme quhile the decisioune of the pley wnder the panis of law with Intimacione to hyme tharapone as efferit

Nomina assise

Williame Scott of baluery knyt
James sandilandis of crovye
Johnne wardlaw of torrye
Andrew Seitoune of perbroith
Dauid berclay of culerny
Johnne hay of fudye
Alexander Sibbald of rankelour
Thomas balfour of dovene
George dischingtoune of Ardros
Johnne multrare of Seyfeild
Alexander gourlay of kincrag
Waltir heriote of burneturk
Robert arnote of wodmyln
Johnne bikkirtoune of casche
The lard of selybawbe
Johnne Inglis of terwat
Thomas berclay of the Rynd

claslogye

The quhilk day Johnne claphane of claslogy comperand personaly in Jugement as he that was lachfully summond tharto at the Instance of Johnne dalglesche [*and Alexander gourlay of Southeld*] [1] for the allegeit hurting distrowbilling & bloid drauing of [*thame*] [1] and perseuit be robert dalgleische fader to the said Johnne dalglesche personaly in [*thar*] [1] name was accusit tharof the quhilk he alutraly denyit the samyn or ony wyte arte or parte tharof & tuke hyme to the knawlaige of the said assise Quhilk
49*r* removit | [furth] of Courte & thareftir thai being riplye & weile awisyt enterit agane in courte fand & deliuer[it] all in ane woce but wariacione or discrepans be the mouth of the foirsaid williame scott of baluery kny[t] chancellare of the said assise that the said Johnne claphane of claslogye was qwytte clene & Innocent of the foirsaid hurting distrowbilling & bloid drawing of the said perso[*nis*] [2] & of all wyte & parte tharof

The quhilk day Johnne tod & cristiane kilgour in balqwhombrye war summond personaly in Jugement to compere at the nixt courte to ansuere to mariory pousta & dauid gregour hir donatare cessionare & assigna or ony of thame wpone the clame of [3] twa beltis [3] contenit in the precepte & the said cristiane to prefe hir Intent quhilk scho alegeit agane the said mariory that scho had lent hir mare thane the xvj s̃ wpone the said [3] belt [3] as terme peremptour

The quhilk [day] the actioune & cause movete betuix Thomas Archibald Johnne thomsone & Agnes schankis is with consent of party continu[i]t to the said nixt courte in forme & effect as It now is but preiudice of party & thai warnit tharof apud acta

The quhilk day in the actioune & cause movete be Alexander wemis of carnye & Alexander skougale his tennent of westir crovye aganis Andrew kinloch in westir

[1] Blank in manuscript. The words which are inserted are suggested by previous entries.

[2] A blank occurs after *perso*'.

[3] So the manuscript.

kynnere certane witnes being producit be the parte of the said Alexander ware suorne & Resauit & thar deposicionis ordanit to be closyt to the said v day of Julii al excepcionis releuant Reseruit to the said Andrew that day as this day & the actione continu[i]t to the said court & the partiis warnit tharof apud acta

The quhilk day the brefe of Inquest Impetrate be cristiane Rettray Is with consent of James sandilandis of crovy & Robert arnote of wodmylne & the said cristiane continu[i]t to the said v day of Julii in forme & effect as It now Is but preiudice of party wnder hoipe of concord

The quhilk day the schiref foirsaid for debilite of courte & wthir grite causis moving hyme continu[i]t the said courte & all actionis of party to the v day of Julii nixt tocum in all effect & forme as thai now are but preiudice of party & thai warnit tharof apud acta & be opyne proclamacioune at the tolboith stare as the maner is

The quhilk day Johnne dawsone & williame dausone in baldony ware ofttymes callit & comperit nocht at the Instance of Andrew stevinsone in baldony as thai that ware lachfully summond tharto & tharfor was amerciit in the wnlaw of courte & dome gevin tharapone amerciatur amerciatur

Curia vicecomitatus de fiff Tenta In pretorio burgi de cupro per Nobilem virum Johannem magistrum lindesay de petcrovye Militem vicecomitem de fiffe Dauid Sibbald de Lethame & Thomam grundistoune suos deputatos die quinto mensis Julii Anno domini m° v^c xix° 49v

The quhilk day the actione & cause movet be Alexander wemis of Carny & Alexander skougall his tenent of crovy aganis Andrew kinloch in westir kynnere as is contenit in the summondis & actis of court past & maid tharapone of before is with consent of the said alexander for hyme self & [1] for [1] the said alexander wemis as caucionare for hyme de rato habente one ane parte & Andrew bonare

[1] Added above the line.

for the said Andrew kinloch and caucionare for hyme cciam de Rato habente one that wthir parte contineuit to the xxvj day of Julii foirsaid as it now Is but preiudice of party in hope of concord

The quhilk day masteris Andrew stewarte Thomas wemis & Robert Rede procuratouris for ane honorable Man henry Stewarte of rossith with sufficient pouere red & admittit in Jugement protestit that the inhibicione maid be the schiref [1] to the said henry tueching the Intromitting with the landis of balmoile northir at the Instance of margrete hay & williame touris hir Spous suld turne hyme nore his said procuratouris in his name to na preiudice nore hafe na place because the said henry was nocht present hyme self

The quhilk day the Jugis decernit preceptis to be direct to margrete hay & williame touris hir Spous to put thame in siclike possessioune of the landis of balmoile northir with thar pertinentis as thai war in & thar seruandis & gudis the tyme of the Inhibicione maid to henry stewarte of rossith tharapone of before & to keip & defend thame tharintil to the decisioune of the pley as accordis of law

The quhilk day master robert red prelocutore for thomas balfour protestit that quhat war done be the schiref or his deputis tueching the office of tutory of williame balfour the sone & aire of wmquhile Thomas balfour in kingorne suld turne the said thomas to na preiudice bot that he mycht hafe the priuilege & remede of law tyme & place neidfull

The quhilk day It was fundin & deliuerit be decrete of courte that george of petcarne was tutour testamentare to williame balfour foirsaid because he producit & schew in Jugement ane confirmit testament actentik makand the said george tutour testamentare to the said williame And nane opponand nor agane sayand the samyn the said thomas balfour beand present/and als Alexander orrok of

[1] *in the* deleted here.

Selybaube beand thar personaly present as he that was lauchfully summond tharto for his Intraes And thane the schiref forsaid decernit preceptis to be direct to mak the said george petcarne to exerce & brouk the said office of tutorye And to be Ansuerit & obeyit In all thingis concerning the samyne aye and quhil he be Lachfullye callit & ordourly put tharfra according to our Souerane Lordis lettres impetrate be the said george tharapone producit & Red In Jugement wpone the quhilk cognicione was takyne at the command of the saidis lettres with lauchfull premunicione & summondis of party & al wtheris havand Intraes in the said mater maid tharapone of before

The quhilk day the Juge decretyt that cristiane kilgour suld deliuer mariory pousta hir reid siluerit tussia [1] within the terme of law & that the said mariory suld pay hir the xvj s̃ that scho borrouit tharapone & fund souerte to ansuere to the said cristianis clame as the law requiris Dauid gregour & ordanit hyme to hafe the belt in keping for his releiffe

The quhilk day Johnne fettais was summond personaly in Jugement to ansuere at the nixt courte at the instance of mariory pousta or dauid gregour hir cessionare & assigna for the withhalding of a kow

Curia vicecomitatus de fiffe Tenta in pretorio burgi de cupro per Nobilem virum Johannem magistrum Lindesay de petcrovy militem vicecomitem de fiffe Dauid Sibbald de Lethame Andream lundy de stretharly Thomam grundistoune & Jacobum akynhede suos deputatos et eorum quemlibet die xxvj^{to} mensis Julii Anno domini m^{o} v^{c} xix^{o} Sectis vocatis et curia affirmata 50*r*

Nomina assise et Inquisicionis

Petir creightoune of the Nauchtane kny^{t}
Johnne multrare of Seyfeild

[1] belt.

Dauid Spens of wilmerstoune of the lard of Rossithis actioune & lu[c]hald
Johnne martyne of cardowne
Waltir heriote of burneturk of the lard of rossithis actioune
Johnne Seitone of lothreisk
James Ramsay of Cowle
} non deliberauit cum margareta hay aut villelmo touris contra dominum de Rossith & desuper cepit instrumentum
Williame Spittale of luchald
Dauid berclay of touch
James echling of pettadrow of the lard of Rossithis actioune
Alexander orrok of Selybaubye of the lard of rossithis actione
George erth of Smethtoune
Francisk Ramsay of foxtoune
Alexander louchmalony of that Ilke
Alexander skowgall of crovye westir
Alexander schethome of cascheskelpye
Dauid boiswell of cragside of the lard of rossithis actione
Andrew kinloch of luthre

Nichol Smyth

The quhilk day margarete abircrumbye in the hospitale comperit personaly In Jugement and said & planelye exponit that scho had na richt to the tak of the landis of Cowle with the pertinentis liand within the schirefdome of fiffe acclamyt be Nicholl Smyth to pertene to hyme be wertu of assedacioune of the samyn quhilk he had of James Ramsay of arbekky lard of the said landis of coule the said James beand thar personaly present and affermand the samyn And the schiref foirsaid decretit that the said Nichole suld brouk & Joise the said landis in assedacione eftir the forme & tenour tharof & for the termes contenit tharintil & all wthir personis to decist tharfra & ordanit preceptis to be direct herapone to keip & defend hyme tharintil as acordis of law & eftir the tenour of the kingis lettres producit tharupone

Qui Jurati dicunt quod Thomas balfour patruus willelmi balfour filii et heredis quondam thome balfour burgensis de kingorne est propinquior Agnatus Id est consanguineus ex parte patris willelmo balfour predicto Et quod ille propinquior excessit etatem xxv annorum Et quod non [1] est sue rei prouidus nec [1] potens cauere ydonee de administracione Rei aliene Et quod non est immediate successurus Ipsi willelmo si ipsum willelmum contigerit Infata decedere quia Idem willelmus habet sororem ex eisdem patre et matre genitam & procreatam sibique successuram virtute tamen acti parliamenti super tutela confecti Idem Thomas tutor legitimus prefati willelmi esse Reperitur tutour balfour

The quhilk day the actioune & cause movete be Alexander wemis of carny & alexander skougale his tennent in westir crovy aganis Andrew kinloch in kynnere contenit in ane summond tharupone Is with consent of party continu[i]t as it now is [2] but preiudice of party in hope of concord [3] to the hed schiref court nixt eftir michalmes & the partiis warnit tharof apud acta continuatur

xxvj[to] Julii 50*v*

The quhilk day the Actioune & cause movete be Andrew kinninmont of craghall & Johnne kynnynmont his tutour as [4] it is contenit in the summondis tharapone aganis katerine halkhed lady of craghall Is with consent of party continu[i]t as it now is to the xvj day of august nixt tocum & the partiis warnit tharof apud acta continuatur

The quhilk day In the actione & cause perseuit be williame spittaile of luchald aganis andrew trumbule dauid walwoide thomas quhite michale andersone patrik kyncawile Johnne walwoide Johnne wynter Johnne harlaw henry stewinsone mychale stewinsone williame spittalle Johnne andersone [and] thomas andersone his sone for Luchald

[1] So the manuscript.
[2] *to the xvj day of august nixt tocum* deleted here.
[3] *&* deleted and *to* added above the line.
[4] The manuscript has *is*,

the wranguis occupatione bruking sawyng & intromitting of his landis of anc half Sewinparte of the landis & barony of fordall at thar awin handis but ony title[1] of rycht lauchfull assedatione tak or tollerence of hyme as wiolent possessouris tharof as at lenth is contenit in the summondis tharupone the partiis forsaid being lauchfullie summond to this actione the said williame spittale of luchald comperand personaly & the personis forsaid ex aduerso comperand be ane honorable man andrew touris thar procurator with sufficient power publist & admittit in Jugement the said williame Spittale of lucheld producit and schew his chartir sesing & evidentis of the forsaid landis be the quhilkis It wes clerly knawin that the said landis pertenit to hyme in heritage and the said personis nor thar procurator forsaid producit nor schew nocht na title[1] nor evident of the said williamis quharby that thai haid ony rycht to laubour or occupy his said landis bot allegiit thar rycht to be had of wtheris for the quhilk the mater wes put to the knawlege of ane assise tharupone chosin & suorne quhilkis removit of court & thareftir thai being riplie & weile avisit eftir the productione of certane wittnes & evidentis at lenth be thaim wnderstandyn & considerit reinterit in court fand & deliuerit all in anc woce be the mouth of dauid barclay of touch chancellare of the said assise that the saidis personis had done wrang in the occupatione & lauboring of the said landis & that thai hed scaithit the said williame spittale of lucheld tharthrow to the soume of xij merkis usuele money of scotland with the mare quhilk he hed sustenit & mycht haif hed of proffit of his cattaile sene the terme of witsonday was anc 3ere And thane the schiref forsaid put inhibitione to the forsaidis personis & thar procuratour in thar names chargeing thaim to decist & cese fra ony intromitting with the saidis landis lauboring or occupatione of thaim to be Joysit & brukit peciable be the said williame Spittale of luchald as his heritage & thaim to content & pay to hyme the said soume of xij merkis

[1] The manuscript has *titlie*.

within the term of law & gert gyf the dome of court tharupone as the law requirit

petcarne

The quhilk day the schiref foirsaid commandit & chargeit in our Souerane lord the kingis name in Jugement alexander orrok of selibaube thar personaly apprehendit to decist & cese fra ony molestacione of george petcarne tutour testamentare to williame balfour the sone & are of [1] Elizabeth kingorne the spous of [1] wmquhile thomas balfour burges of kingorne in the peceable Josing and brouking of his office of tutory or ony thingis tharto pertening or Intromit tharwith in ony maner of wise wnder the panes of law

lundy continuatur

The quhilk day the actioune & cause perseuit be Andrew lundy of stretharly aganis Johnne lummisden of Ardre as is contenit in the summoundis tharupone is be the schiref foirsaid continu[i]t to the xvj day of august nixt tocum but preiudice of party

51*r*

hay & touris

The quhilk day In the actione & cause perseuyt be margrete hay & Williame Touris hir spouse aganis henry Stewarte of Rossith tueching the allegeit wranguis troubilling of thame in the [pe]ciable Josing & brouking of the landis of balmoile northir with thar pertinentis pertening to thame be resoune of assignacione tharof maid to thame be wmquhile master dauid Spens persone of flisk & wranguis away taking fra thame furth of the said landis of xj 3owis with thar lammis Like as at mare lenth is contenit in oure Souerane lordis lettres impetrate be thame tharapone & the summoundis tharapone direct the saidis margarete & williame hir Spous comperand personalye & the said henry comperand be master Thomas wemis [*and Robert Red*] [2] his procuratouris thai being lauchfully summond to this actione of before thar richtis resonis and allegacionis before ws producit red herd sene wnderstandyn & considerit the schiref foirsaid gert Reid the said our Souerane lordis lettres quhilkis commandit

[1] Added in margin.

[2] Blank in manuscript.

& chargeit hyme & his deputis to call the partiis before thame & tak cognicione in the said mater like as the said lettres proportis . . .[1]

Qui Jurati dicunt quod quondam dauid wallinsche de pettedye pater Johannis wallinsche latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem & fidem supremi domini nostri Regis de uniuersis & singulis terris de eistir pettedye cum pertinenciis Jacentibus infra baroniam de eistir kingorne et vicecomitatum de fiffe Et quod predictus Johannes presencium lator est legitimus & propinquior heres eiusdem quondam dauid sui patris de predictis terris cum pertinenciis Et quod est legitime etatis Et quod predicte terre cum pertinenciis valent nunc per annum x li et valuerunt tempore pacis xl s Et quod tenentur in Capite de[2] domino glammis [barone] dicte baronie per seruicium albe firme soluendo d si petatur Et quod nunc existunt in manibus dicti domini baronis tanquam domini superioris earundem racione nonintroitus veri heredis ad easdem per decessum dicti quondam dauid ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium v annorum et x mensium aut eocirca In quorum etc

Curia vicecomitatus de fiff Tenta In pretorio burgi de Cupro per Thomam grundistoune vicecomitem deputatum de fiffe die xvj^to mensis augusti Anno domini m^o v^c xix^o sectis vocatis & curia affirmata

compromissis

Quo die dauid kynnynmont de eodem pro se & Johanne kynnynmont suo filio ex una et Robertus atkyne inchola de kynnynmont partibus ab altera Juramento suo Judicialiter desuper prestito per suarum manuum extensionem fideliter compromiserunt in willelmo hay de balbethye dauid scot de binnis [?] dauid gregore burgense de cupro super uniuersis & Singulis actionibus debatabilibus inter

[1] Entry incomplete.

[2] *barone* appears to be deleted here; perhaps it should follow *glammis* as suggested.

ipsas partes ante datam presencium et precipue super contentis in quodam precepto citacionis tanquam Judicibus arbitratoribus et amicabilibus compositoribus qui conuenient apud kynninmont die [ ][1] mensis septembris proxime futuri hora [ ][1] merediem et onus in se acceptabunt et finent siue sententiam suam proferent infra hinc & festum sancti michaelis proxime aduenturum et Judices habeant facultatem continuandi et recipiendi testes absque citacione

Quo die Johannes atkesone inuenit thomam richardsone plegium plegium [2]Juris[2] pro eo quod Johannes henry erit indempnes de ipso & omnibus quos Impedire poterit nisi ut lex voluerit sub pena Juris

Eodem die dictus Johannes henry Inuenit eundem Thomam richardsone plegium Juris pro ipso quod dictus Johannes atkesone erit indempnes de ipso et omnibus quos impedire poterit nisi ut lex dictauerit sub pena Juris

Quo die actio inter Johannem atkesone & Johannem henry continuatur ex partium consensu ad curiam capitalem proxime post festum sancti michaelis ut nunc extat

Eodem die domina de craghal protestabatur pro expensis contra Johannem kynnynmont

Quo die lochore allegabat empcionem unius equi a Johanne williamsone pro xx^{ti} ℈ sibi solutis et quod sponsa dicti Johannis deliberauit sibi eundem equum ad probandum ad curiam capitalem

Curia Capitalis vicecomitatus de Fiffe Tenta In pretorio burgi de Cupro die quarto Mensis Octobris Anno domini millesimo quingentesimo decimonono [3]per[3] honorabilem virum willelmum lindesay de piotstoune dauid Sibbald de Lethame et Thomam grundistoune vicecomites deputatos de fiffe et eorum quemlibet Sectis vocatis etc 51v

[1] Blank in manuscript.
[2] Added above the line.
[3] Repeated in the text.

Nomina absencium

S p Sauling
p blak Sawling
S p bordland sawling
S p Rossith
S p Clesche
S p Crambeth
S p Lochorschire eistir
S p disert except g erth personaris
S p Sandfurd personaris
S p kellye
S p Lundye
S p balcormow
S kittedye
S lethalland
S p Seyfeild
S p ballindone
S p balgonware
S p balneile
S p Anstrothir
S p Sauchope
S farleislandis
S p flaskhill

procurator

Quo die Cokky litil Johnne Judicialiter constituit thomam freremilne dauid grundistone et dauid Jamisone procuratores in omnibus [suis] actionibus & precipue ad prosequendum willelmum patone super certis bonis summis & aliis rebus sibi debetis cum potestate substituendi perdendi & lucrandi et promisit Ratum & gratum ut moris est etc

Nomina Assise

George dischingtoune of Ardros
Johnne mailuile of the raith kny^{t}
Williame forbais of Reras kny^{t}
Thomas forestare of strethanrye
Dauid myrtoune of cammo
Williame Scott of baluery kny^{t}
Dauid Wemys of that Ilke
Williame Monypenny of petmolie
Johnne hay of fudye
Johnne Inglis of Tervate
Francis Ramsay of foxtoune
Alexander Sibbald of rankelour
Thomas berclay of the Rynd
Johnne spens of lethalland
Dauid Tullo of hilcarnye
Williame schevas of burneschelis

The quhilk day the actioune & cause movete be Andrew kynnynmont of craghall & Johnne kynnynmonth his tutour aganis dame katrine halkhed lady of craghall Is with consent of party continuit in al effect & forme as It now is but preiudice of party to the hede schiref courte nixt eftir 3wile folouand immediate eftir de[1] date of this act & the partiis warnit tharof apud acta continuatur

The quhilk day the brefe of diuisioune of the landis of craghall Is with consent of partye continu[i]t to the morne nixt eftir the said courte in forme & effect as it now [is] & the partiis warnit tharof apud acta personaly continuatur

Eodem die georgeus Ramsay de clatty Intrauit & presentauit Michaelem lorimer sectatorem curie pro terris suis de clatty qui Juramentum corporale de fideli administracione in huiusmodi officio prestitit wsquedum exoneretur Secta

Eodem die Johannes wilsoune Intratus presentatus & Juratus [est] in Sectatorem Curie pro terris de perbroith similiter Secta

Eodem die Johannes watsoune fullo Intratus presentatus et Juratus [est] In sectatorem curie pro terris de kirkness similiter etc Secta

52r

Eodem die Rescripto Thomas callandare presentatus et Juratus [est] in Sectatorem Curie pro terris de kellye wsquedum exoneretur ut supra Secta

The quhilk day the actioune & cause movete & depending betuix alexander skowgall in crovye & Andrew kynloch in vestir kynnere wes with consent of party continuit to the nixt court continuatur

The quhilk day the actioune & cause perseuit be margrete douglace aganis Thomas deuare tueching the allegeit wrangus occupacione of the landis of dunduff with thar pertinentis pertening to the said margrete in lifrent be chartir sesing & possessioune had tharapone as at lenth is contenit in our Souerane lordis lettres & precepte of douglase

[1] So the manuscript.

summondis direct & past tharapone the partiis foirsaid being lachfully summond to this actioune the said margrete comperand be hir procuratour Master Johnne dowglace persoune of Newlandis & the said Thomas comperand be his procuratour Master Thomas wemis the said Master Johnne procuratour for the said margrete producit & schew In Iugement Ane chartir with lettir of balȝery & Instrument of Sesing of lif Rent of the saidis landis of dunduf gevin to the foirsaid margrete be the quhilkis It was clerlye wnderstandin that the saidis landis of dunduf pertenit to the said margrete In lifrent And because the said master thomas procuratour for the foirsaid Thomas deware producit nore schew nane sufficient lettir nore evident of tak of the said landis the schiref deputis foirsaid awisit with the baronis frehaldaris & assessouris to thame decretit & deliuerit that the said margrete had lif rent of the saidis landis of dunduf be the ostencione of the chartir & sesing tharapone producit & publist in Jugement & ordanit & decernit the said landis to be Josit & browkit be hir at hir plesour during hir lifetyme eftir the forme & tenour of the saidis oure souerane lordis lettres the chartir and sesing foirsaid And preceptis to be direct to poynd & distrenȝe for the byroune malis & deuiteis of the saidis landis awing to hir be the Inhabitaris & tenentis of the samyn sa fer as thai grant or scho can sufficiently prefe according to the saidis lettres etc

Lindesay

The quhilk day williame Lindesay of piotstoune protestit solemmtly that quhat war done betuix dame katrine halkhede lady of craghall Johnne Inglis of teruat Andrew kynnynmont of craghall & Johnne kynnynmont his tutour or ony of thame tueching the landis of craghall or seras or ony parte of thame suld turne hyme to na preiudice because the said dame katrine had sett the said landis of craghall & Seres pertening to hir or ony wise mycht pertene/to the said williame And had constitute create & maid the said williame hir assigna Irreuocable tharto like as scho confessit & grantit opinly in Jugement Ratifiand & appreuand the samyn be hir aith suorne

The quhilk day the actioune & cause movet be Johnne moire aganis Johnne kynnynmont tutour of craghall as is contenit in the summondis tharupone Is with consent of party continu[i]t to the xxv day of Octobere Instant in forme & effect as It now is but preiudice of partye continuatur

The quhilk day Thomas berclay of the rynd prelocutour for Johnne Inglis of tervate protestit for the costis & scathis sustenit be the said Johnne in the defalt of the said dame katrine halkhede tueching the landis of craghall & Seras [1] & the tak & assedacione maid & grantit to hyme be hir of before & that the dilacione tharof suld turne hyme to na preiudice & for the priuilege & remeid of law because of the wanting tharof & the profit of the samyn protestacio

Octobere 52*v*

Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Johannem Rankelour de eodem & thomam grundistoune vicecomites deputatos de fiffe die xxv^to^ mensis octobris rescripte sectis vocatis etc

The quhilk day schir dauid huhomsone chapellane in the Name of the lord of san[c]t Johnis preceptore of torfichine & the master & brether of sanct paulis werk in Edinburgh protestit solemmtlye that quhat war done be the schiref of fiffe or his deputis ane or ma in the actione movet betuix Johnne rankelour Johnne litstare & his sounis tenhentis of uchtirogall pertening to the tempil hous of sanct Johnne tueching the priuilege tharof suld nocht hurte nore turne thame to na preiudice in ony thing & gif thai did for remede of law tyme & place oportune & producit ane pouere of replegiacione protestacio

The quhilk day Andrew balcomy burges of couper protestit that he mycht hafe ane terme to call petir petblatho of that Ilk to warant hyme of the clame clamete be alane Jamisone wpone hyme as plege for the said petir & protestit quhat war done suld turne hyme to Na preiudice continuatur

[1] *maid til* deleted here.

& askyt anc terme to cal his said warant to warant hyme at the handis of the said Alane tueching the clame of the feird parte of viij ℔ of quhete sauing in petblatho to the quhilk the Juge assignit the xv day of Nouembere nixt tocum & tuk the deposicionis of James huhonsone to be kepit close to the said day because he was to saile in flanderis

continuatur The quhilk day the actione movete betuix Johnne litstare & his sounis one ane parte & Johnne rankelour one that wthir parte tueching distroubillance & bloidwit wes continu[i]t with consent of party to the xv day of Nouembere nixt tocum & the partiis warnit tharof apud acta

continuatur The quhilk day the actioune betuix pirye & logy was continu[i]t to the said xv day & with consent of party & thai warnit tharof apud acta

amerciantur The quhilk day Johnne bouchane & cristiane galt his spous war oft tymes callit & Comperit nocht as thai that war lachfully summond of before for the breking of ane arreist war amerciit in the wnlaw of courte & dome gevyn tharapone

continuatur The quhilk day the Juge continu[i]t the replegeing of litstare & rankelour to the said xv day

Curia vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per [1] honorabilem virum [1] willelmum lindesay de piotstoune & Thomam grundistoune vicecomites deputatos de fiffe xv^to die mensis Nouembris anno domini m^o v^c xix^o sectis vocatis & curia affirmata

continuatur Continuatur actio in alexandrum skougale de crovy & Andream kinloch de luthre ex partium consensu ad curiam capitalem proximam post pascha sub spe concordie et partes premunite apud acta

amerciantur Quo die Archibaldus douglace Johannes pacok laurencius kirkaldy Johannes Ramsay willelmus alanesone et Archi-

[1] So the manuscript.

baldus Johnesone sepe vocati et minime comparentes prout citati fuerant ad perhibendum fidele testimonium in causa mota inter dominum luchald et andream turnebule dauid walwod et ceteris aliis in quodam precepto contentis amerciantur per Judicium curie

Curia Capitalis vicecomitatus de fiffe Tenta In pretorio burgi de cupro per [1] honorabilem virum [1] Georgeum strang de balcasky et Thomam grundistoune vicecomites deputatos de fiffe die decimo Mensis Januarii Anno domini m° v^c xix° Sectis vocatis & curia affirmata 53r

Nomina absencium

S p Sauling
S p blaksauling
S p bordland sauling
S p Rossith
S p petconnoquhye
S p Clesche
S p kynescowte
S p Crambeth
p kirknes
S p Lochorschire eistir
p glasmonth
p Wemys westir personaris
S p Estparte of disert
S p vestparte of disert except erth
p Seres
p kincrag
p Reras
p kelle
S p Ardre Ramsay
S p Auchmouty
S p pettinveme
S p pettincrefe
S p Saultoune
S lethalland
S p balgonware
S p balneile
S p Anstrothir
S p Sauchope
S p seyfeld

Nomina Inquisicionis et assise

Petir crechtoune of the Nachtane kny^t
Dauid berclay of culerny
Johnne claphane of claslogye
Waltir heriote of burneturk
Dauid tullo [of] hilcarny
Alexander lochmalony de eodem
Alexander narne of sandfurd

[1] So the manuscript.

Johnne hay of fudy
Thomas berclay of the Rynd
Johnne Spens of lethalland
Francisk Ramsay of foxtoune
Johnne Inglis of terwate
George erth of smythtone
Petir petblatho of that Ilke

Qui Jurati dicunt quod quondam Johannes Rankelour de eodem pater Johannis rankelour latoris presencium obiit wltimo vestitus & sasitus ut de feodo ad pacem & fidem supremi domini nostri regis de uniuersis & singulis terris et molendino de Rankelour nethir cum tenandriis earundem et suis pertinenciis Jacentibus infra vicecomitatum de fiffe Et quod predictus Johannes presencium lator est legitimus et propinquior heres eiusdem quondam Johannis sui patris de predictis terris molendino et tenandriis cum suis pertinenciis Et quod est legitime etatis Et quod predicte terre cum molendino et tenandriis cum suis pertinenciis nunc valent per annum x ℔ Et tempore pacis xx^{ti} ℌ Et quod tenentur in capite de supremo domino nostro rege per seruicium warde et releuii Et quod existunt in manibus sue celsitudinis tanquam domini superioris earundem racione nonintroitus [1] per decessum dicti quondam Johannis ob defectum heredis legitimi Jus suum minime prosequentis ad spacium duarum mensium aut eocirca In quorum etc

Secta

Quo die Thomas forestar de Strethanry Intrauit Robertum lassaellis Sectatorem curie pro terris suis de colbakye

Qui Jurati dicunt quod quondam Dominus Andreas Mowbray capellanus frater Jonete mowbray Latricis presencium obiit ultimo vestitus et Sasitus ut de feodo ad fidem & pacem supremi domini nostri regis De toto & Integro uno annuo redditu quinque marcarum usualis monete regni annuatim percipiendo et leuando de totis et Integris terris de kincarny cum suis pertinenciis Jacentibus in baronia de Innerkething infra vicecomitatum de fiffe Et predicta Jonета est legitima et propinquior heres eiusdem quondam

[1] *ad* deleted here.

domini Andree de predicto annuo redditu cum pertinenciis Et quod est legitime etatis Et quod [predictus annuus redditus] tantum valuit tempore pacis quantum nunc valet per annum et quod tenetur in capite de [1] domino de kincarnye per seruicium albe firme soluendo denarium si petatur Et quod nunc existit in manibus domini [2] nostri regis racione warde dicte baronie [2] [3] in manibus suis nunc existentis [3] per decessum dicti quondam domini Andree ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium quatuor mensium aut eocirca In quorum etc

53v blank

54r Curia Capitalis vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Nobilem dominum Patricium dominum Lindesay de biris & Johannem Magistrum lindesay de petcrovye militem vicecomites de fiffe Andream lundy de Stratharlye walterum heriote de burneturk et Thomam grundistoune eorum deputatos die decimoseptimo mensis aprilis Anno domini millesimo quingentesimo vicesimo

Nomina absencium

Sawling
bordland sauling
blaksauling
clesche
kynescout
kirknes
wemis eistir
disert sinclare
personaris of the estparte of Disert except g erth
Clattye
Seres except baluerye
kelle
Auchmoutye
kynmukkis dunbare
Drumclocho
luquehris Wemys
Collestoune
Dalgathie
Lathalland
ballindone
balgonware
Touch eistir
balcanquell
flaskhill

[1] *barone dicte baronie* deleted here.

[2] Added above the line.

[3] Added in margin. The words *baronis baronie de Innerkething racione warde dicte baronie* deleted in the body of the text.

Nomina assise et Inquisicionis

Willelmus Scott de baluerye miles/of petgorno
Dauid berclay de culernye
Johannes Mailuile de Carnebye
Johannes claphane de claslogye
Alexander Sibbald de rankelour
Johannes hay de fudye
Johannes mailuile de Rath miles/of petgorno
Dauid Lindesay de month of his aune brefe
Alexander Narne de pursk
Alexander lochmalony de eodem
Thomas berclay de Rynd
Johannes martyne de cardwane
Franciscus Ramsay de foxtoune of lindesayis brefe
Dauid berclay de touch
Dauid tullo de hilcarnye

Craghall

Quo die Thomas grenelaw Intratus et Juratus [est] in sectatorem curie pro terris de craghall et domino [1] eiusdem et Juratus [est] de fideli administracione in officio usquedum exoneretur

Qui Jurati dicunt quod quondam Jacobus Ramsay Auus dauid Lindesay de month Latoris presencium obiit ultimo vestitus & sasitus ut de feodo ad pacem & fidem Supremi domini nostri regis de toto & Integro uno annuo redditu Octo marcarum usualis monete regni scocie annuatim percipiendo & leuando de totis et Integris terris de monthquhanny cum pertinenciis Jacentibus infra vicecomitatum de fiffe Et quod predictus dauid presencium lator est legitimus & propinquior heres eiusdem quondam Jacobi Aui sui de predicto annuo redditu cum pertinenciis Et quod est legitime etatis Et quod predictus annuus redditus cum pertinenciis tantum valet nunc per annum quantum valuit tempore pacis Et quod tenetur in capite de domino de monthquhannye per seruicium albe firme solvendo ð si petatur Et quod nunc existit in manibus Elizabeth balfour Relicte quondam dicti Jacobi racione coniuncte infeodationis desuper habite per decessum dicti quondam Jacobi ob defectum heredis legitimi Jus suum

[1] The manuscript has *dominum*.

hactenus minime prosequi valentis ad Spacium [ ][1] annorum aut eocirca In quorum etc

Qui Jurati dicunt quod quondam Magister dauid Spens Rector de flisk patruus dauid Spens de wolmerstoune Latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem et fidem Supremi domini nostri regis de Superioritate unius annui redditus x ℔ terrarum de piotstoune cum pertinenciis Jacentium infra vicecomitatum de fiffe Et quod predictus dauid presencium lator est Legitimus et propinquior heres eiusdem quondam magistri dauid de dicta superioritate Et quod est legitime etatis Et quod [predictus annuus redditus] tantum valet nunc per annum quantum valuit tempore pacis Et quod tenetur in capite de domino de piotstoune per seruicium albe firme Et quod nunc existit in manibus eiusdem domini de piotstoune Juste per seipsum racione decessus dicti magistri dauid ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium unius anni elapsi aut eocirca etc 54v Spens

Qui Jurati dicunt quod quondam Alexander Inglis de tervat Auus Alexandri Inglis latoris presencium obiit ultimo vestitus et saisitus ut de feodo ad pacem & fidem Supremi domini nostri regis de uno annuo redditu quinque marcarum usualis monete Regni de uniuersis et singulis terris de merecammos cum pertinenciis Jacentibus infra vicécomitatum de fiffe Et quod predictus Alexander presencium lator est legitimus et propinquior heres eiusdem quondam Alexandri Aui sui de predicto annuo redditu cum pertinenciis Et quod est legitime etatis Et quod [predictus annuus redditus] tantum valet nunc per annum quantum valuit tempore pacis Et quod tenetur in capite de domino de balmowto per seruicium albe firme soluendo ꝺ si petatur Et quod nunc existit in manibus eiusdem domini de balmouto Juste per seipsum racione decessus dicti quondam Alexandri ob defectum heredis legitimi Jus Inglis

[1] Blank in manuscript.

suum hactenus minime prosequentis ad spacium vj annorum elapsorum aut eocirca In quorum etc

Sibbald

Qui Jurati dicunt quod quondam Dauid Sibbald de Lethame pater Andree sibbald latoris presencium obiit ultimo vestitus et sasitus ut de feodo ad pacem & fidem supremi domini nostri regis de tota et Integra una quarta parte omnium et Singularum terrarum de glaslye cum suis pertinenciis Jacentium infra vicecomitatum de fiffe Et quod predictus Andreas presencium lator est Legitimus et propinquior heres eiusdem quondam dauid sui patris de dicta quarta parte terrarum de glaslie cum pertinenciis Et quod est legitime etatis Et quod [dicta quarta pars] nunc valet per annum vj marcis et tempore pacis [valuit] xx^{ti} ℈ Et quod tenetur in Capite de Supremo domino nostro rege per seruicium warde et Releuii Et quod nunc existit in manibus sue celsitudinis racione warde per decessum dicti quondam dauid ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium trium mensium aut eocirca

The quhilk day in the actioun & pley persewit be hew muncref aganis James Ramsay & Jonet gray his spouse anentis the landis of petgorno/the said James & his forespeiker exceptit agane the precept of summondis maid upone thame and allegeit It wes of nane avale because It wes execut upone munnunday eftir palme sonday as he said in feriat tyme And that he gat noucht the coppy tharof the quhilkis twa exceptionis wer repellit the fyrst because It hes bene the wsse & consuetud of the Realme to execute summondis In diuers causes eftir palmesonday And the secund because the coppy wes nocht askit at the tyme of the fyrst execucioun of the summondis And als thar wes producit ane Instrument berand that eftir the fyrst execucione the officiar executore of the summondis passit agane to the said James duelling place and offerit the coppy of the summondis to him his wyfe & scruandis & na persone wald ressaue It fra him & tharfor It wes repellit upone the quhilk the said hew muncreif askit ane act

The quhilk day in the actioun & pley persewit be hew muncreif aganis James Ramsay & Jonet gray his spouse anentis the landis of petgorno the said James Ramsay producit ane lettre of tak of the | abbot of balmerynoch 55r
and askit ane day to call him to be his warrand The said abbot being thar personaly present and in the begyning of pley allegeand that he had Interes to thai landis and wald defend that actioun And tharfor It wes allegeit be the said hew and his forespeiker that he sould noucht hef ane delay because that the said abbot wes thar personaly present cumin for that cause & hed spokine in the mater and said he wauld defend And than the said schireffis & thar deputtis bad the said James Ramsay ask the said abbot to warrand him than and he sould hef Justice ministerit to him tharupone because the said abbot wes personaly present and hed spokine in the cause & said he wauld defend It And the said James refusyt to do the sammyn Quharefor the schireffis & thare deputtis avisit wytht the court decernit to proceid in the said mater because It wes Intentit & followit before thame at command of the kingis lettres And the said James hed his warrand thar personaly present cumin for the defence of that cause quhom he mycht ask to warrand him and wald nocht And gif the warrand plesit he mycht allege for the Richt of the querell quhat he wald for he wes admittit of before for his Interes to the defend the sammyn upone the, quhilk Interloquitore the said hew muncreif & his forespeiker askit ane act

The quhilk day hew muncreif protestit that sene the abbot of balmerynouch wes present in court and herd & saw the disputacioun of the richt of the pley of the landis of petgorno betuix him & James Ramsay & allegeit na thing aganis the grond richt tharof/that tharfor he sould neuir be herd in that cause In Jugement eftirwert in na tyme tocum & tharupone askit ane act

The quhilk day comperit In Jugement hew muncreif on that ane part And James ramsay on that uthir part as thai that wer lauchfully summond to the takine of

cougnicioun be command of our Souerane lordis lettres thar presentit & Red gif the said hew wes sufficiently Infeft in the landis of petgorno lyand wythtin the schirefdome of fife in fewferme & hed richt tharto and gif sa wer fundin to mak him bruke & Jois the sammyn And als the said James & Jonet gray his spouse being summond at the Instance of the said hew for the wranguis occupacioun of the saidis landis pertening to the said hew in fewferme lyke as at mare lyntht wes contenit in our said Souerane lordis lettres & precept of summondis tharupon direct upone the saidis hew James & Jonet And als ane venerable fader in god Robert abbot of balmerynoch comperand for his Interes as he allegeit sayand that the saidis landis of petgorno pertenit to him & to his abbay of balmerynoch & tharfore he wauld oppone and stand agane that mater for his Interes And eftir the reiding of the saidis our Souerane lordis lettres & precept of summondis diuers excepcionis being discussit & Justlie repellit It wes allegeit be the said hew muncref & his forespeiker that he wes sufficiently Infeft in the saidis landis of petgorno in fewferme heretabilly and that he hed richt tharto and to verefye his allegeance producit In Jugement ane chartir wnder the commone seile of the abbay of balmerynoch subscriuit witht the hand of the abbot & the handis of all thai monkis wer in the abbay for the tyme togydder witht ane precept & Instrument of saising passit tharupone and witht our Souerane lordis confirmacioun of the sammyn chartir wnder the greit Seile maikand mencioun that the saidis landis of petgorno wer gevine & set in fewferme to the said hew muncreif heretabilly for certane ressonable causes & addicioun and augmentacioun of thar Rentale as at lyntht Is contenit in the said chartir And tharwitht producit the actis & statutis of parliament berand that it wes & Is lesum to all prelotis barronis ore frehaldaris to set thar landis in few as thai can aggre witht the partii sua It be noucht in diminicioun of thar Rentale And tharfor allegeit forthir at the said James Ramsay & Jonet
55v gray|dyd wrang in the occupacioun of the saidis landis pertening to him in fewferme and that thai sould be

decernit to decyst & cesse tharfra And he sould be helpit & supleit to broik & Joise the sammyn Aganis the quhilkis euidentis & allegacionis the said James Ramsay and his forespeiker obieckit & opponit sayand that thai wer of nane avale because thai haid noucht the papes confirmacioun And in the contrare allegeit be the said hew & his forespeker that thar wes mony & diuers gyftis & alienacionis of kyrklandis and specialie settis & gevine of landis in few quhilk is noucht ane plane alienacioun in the Realme of scotland baitht of auld tyme & of new quhilk had noucht nore hes the papes confirmacioun & at It wes noucht the commone wsse nore commone consuetud of scotland as ȝit to hef It And tharfor allegeit that he wes sufficientlie Infeft be the saidis euidentis thai schawine & be Ressone of the saidis statutis & actis of parliament And that he hed gud richt to the saidis landis And the saidis James & Jonet dyd wrang in the occupacioun tharof & sould be amovet tharfra & he foretefyit In bruking & Joising of the sammyn/ Eftir the quhilkis allegacionis of baitht the saidis parteis the said mater wes put be the schireffis to the knawleige & decysioun of the assise abone writine chosine & sworne and admittit in Jugement In presentis of baitht the saidis parteis and of the said abbot The quhilkis personis of assise [furth] of court removet ryplie avysit witht the euidentis of the said hew muncreif And wytht all the richtis ressonis & allegacionis of baitht the saidis parteis and our Souerane lordis lettres direct to the schiref of fife & his deputtis tharupone In court agane enterit fand & deliuerit all in ane voce that the said hew muncreif wes sufficiently Infeft in the said landis & toun of petgorno in fewferme heretabilly according & eftir the consuetud wsse & actis of parliament of the Realme of Scotland And that the said hew hed gud richt tharto and sould be fortefeyt helpit & causit to bruke the sammyn And alsua fand & deliuerit that the said James Ramsay & Jonet gray his spouse dois wrang in the occupacioune of the saidis landis because the pretendit assedacioun maid to thaim of the sammyn landis wes lang eftir the said Infeftment of fewferme gevine to the said hew eftir the

seising of the quhilk the abbot & convent mycht noucht lauchfully mak ane new assedacioun contrare the said hew For the quhilk causes It wes decernit & ordanit be decreit of court that the said hew muncreif wes sufficiently Infeft in the saidis landis & hed richt tharto And sould bruke & Joise the saidis landis in fewferme eftir the tenore of his Infeftment heretabilie And sould be fortefeyt helpit and supleyt tharin in all tyme tocum And that the said James Ramsay & Jonet gray his spouse dois wrang in the occupacioun of the saidis landis And sall decyst & cesse tharfra in tyme tocum leifand thame void to be occupeit be the said hew ore sic personis as he pleisis to dispone thaim to according to his Infeftment & our Souerane lordis lettres direct tharupone And ordanis preceptis be direct to amoiff the said James & Jonet thar gudis & seruandis out of the saidis landis at the terme of witsonday nixt tocum because the said hew muncreif consentit to suffer thaim remane quhill than

Ramsay petgorno

James be the grace of god king of scottis to our louittis Alexander caremaig messingere our schireffis in that part coniunctlie & seueralie specialie constitut greting Foresamekle as It Is humilie menyt & schewine to ws be our louit James Ramsay in petgorno that quhar he hes the landis of petgorno wytht the pertinentis lyand withtin the schirefdome of fife pertening to hyme be ressone of assedacione maid to him & his assign[a]is tharof be the abbot & convent of our abbay of balmerynoch be thar lettres wnder thar commone seile for the termes of ix[1] 3eris as the saidis lettres beris And be the vertu tharof he hes brukit the sammyn thir viij 3eris bygane & hes xj 3eris to ryne/howbeyt our schiref of fife callit the said James
56r before hyme|in our schireff court of fife at the instance of hew muncrefe clamand fewferme of the said tak & our said schiref on his maner hes parcialie proceidit aganis the said James anentis the possession tharof & gave ane pretendit deliuerance aganis him tharupone twa 3eris syne repelland al his lauchfull excepcionis quhare in he is

[1] So the manuscript. Probably we should read *xix*.

gretly hurt & Iniuryt aganis the law And our said schiref perseuerand in his parcialite hes forebydding his clerk of court to gif to the said James the coppy of the said process upone his expensis to his grete skaytht & aganis Justice gif sabe Our will is herefor & we charge 3ou straitly & commandis that Incontinent thir our lettres sene 3e pass & in our name & autorite command & charge our said schiref of fife & his clerk of court to deliuer to the said James ramsay upone his expensis the actenkit coppy of the Rolment of court & process led aganis him in the said mater withtin four dais nixt eftir thai be chargeit be 3ou tharto sene thai hef parcialye deferrit him tharfra twa 3eris bygane witht the mare that he may tharby found his actioun for remeid to be hed of the wrang & Iniuris done to him be our said schiref in his office witht certificacione to our said schiref & he do nocht that we & our lordis of our consal in our name will adnull his saidis process & decerne the sammyn to be of nane avale in tyme cummyn ore ellis decerne him to refound to the said James al costis dampnagis & Interessis sustenit be him tharthrou in our said schireffis default according to Justice The quhilk to do we commit to 3ou coniunctlie & seueralie our full power be thir our lettres Deliuering thame be 3ou deuly execute & indorsat agane to the berare gevin wnder our signet at Edinburgh the viij day of Julii & of our Reigne the nynt 3ere/ [8 July 1522]

Ex deliberacione dominorum consilii/ Chepman

James be the grace of god king of Scottis To our schiref pettinweme of fife & his deputis greting Forsamekle as It Is humilie menit & scheuin to ws be our weilbelouit clerk and consalour Maister Robert Foremane prothonotore appostolat & commendatour of pettinweme That quhar george strang of balcasky hes purchesit our lettres direct to 3ou & 3our deputtis to tak cougnicione quhat possessione he hes bene in to ane pece of land on the merchis betuix his saidis landis of balcasky & the landis of the said priour of pettinweme the quhilk cougnicione Is to be takine the last day of Julii Instant And now our said clerk commendatour

of pettinweme Is ordanit be our derrest cousing and tutore the gouernore for besynes he hes ado to Remane in Edinburgh quhill eftir the nixt sonday Sa that he ma noucht compere befor 3ou the said last day of Julii Instant for his Interesse and defence of the said landis pertening to the said priorye of pettinweme Our will is herefor & we charge 3ou straitly & commandis that 3he superseid the taking of the said cougnicione in the said mater wnto the aucht day of August nixt tocum and than Justice to be ministerit tharin as efferis This 3he do as 3he will ansuere to ws tharupone Deliuering thir our lettres be 3ou sene and wnderstandine agane to the berare gevine wnder our Signet at Edinburgh the xxviij day of Julii And of our Regne the nynt 3ere/

[28 July 1522]

Ex deliberacione dominorum consilii

Chepman

56*v* Upone the xix day of Maii In the 3here of god J^m v^c/ and twenty 3eris I Patrik Lord lyndesay of the byris schiref of fiffe In to my place & at the sammyn of the Strothir Creat constitute maid & ordanit Thomas ferry burges of Couper schiref clerk of the schirefdome of fiffe for al the termes dais & ways quhil he be dischargeit be me of the said office And the sammyn day maid him be sworne be the haly ewangellis that he sould be leile & trew to the said office And I maid this act and creacioun to be acckit & mentit in this my court buke of schireffischip And for the maire haboundans hes ordanit & commandit williame lyndesay my sone and Thomas grundiston my sworne deputtis to fensse ane schiref court at the burgh of Coupere the pennult day of maii Instant and in that fensyt court to tak newlingis agane the aitht of the foresaid Thomas my clerk that he salbe trew in the using of the office in court ore utoutht court ay & quhil he be dischargeit be me And ordanis his aitht takine be 3ou in Jugement be acckit in this buke And 3it as of befor I discharge Dauid gregour baytht of deputrie & office of schiref clerk alluterlie & al utheris havand office of clerkschip ore deputtrye except williame lyndesay George strang

of balcasky Andro lundy Thomas grundistoun & Thomas ferry my clerk foresaid And for to testefye the verite of al the premissis I hef subscriuit this act & al the premissis wytht my propire hand ȝere day & place foresaid

Patryk lord lyndyssa of byris
schiref of fyff etc

Curia vicecomitatus de fife tenta in pretorio burgi de Cupro per Thomam grundiston deputatum potentis domini patricii domini lyndesay de byris vicecomitis penultimo die mensis maii Anno domini m° v^{c}/ xx° etc

Quo die Thomas ferry Juratus [est] ad officium clericatus quousque per dominum viceconitem exoneretur

Curia Vicecomitatus de fife tenta in pretorio burgi de Cupro per Thomam grundistone Deputatum potentis domini Patricii domini lyndesay de byris vicecomitis de fife xxvj die mensis Junii Anno domini millesimo quingentesimo vicesimo Quo die sectis vocatis curia affirmata etc

continuatur ad curiam capitalem post festum michaelis

The quhilk day the actioun & cause persewit be Andrew lundy of straherly upone Johnne lummisden of Ardre Is be the said schiref deput for debilite of court continewit to the nixt heid court eftir michaelmes that nixt cummis eftir the forme & tenore of the said Andrewis precept direct tharupone in al effect as It now Is And that Intimacione to be maid to the said Johnne tharupone Apud acta

lyndesay & clapane

The quhilk day the actione and cause persewit be williame lyndesay of pyotstone upone Johnne clapame of kerslogy be ane precept of summondis tharupone direct as he that come souerte to the said williame for maister Alexander kynnynmontht for the gyrse maile of cattell pastorit in the lordschip of craghall as the actis of court tharupone of befor proportis And the said Johnne oft tymes summond & callit that is to say to the fyrst secund thrid & now as to the ferd court |upone the sammyn than 57r

on the said ferd court the foresaid Johnne summond personaly be anc precept of the said schireffis as the Indo[r]sing of the sammyn proportis that is to say to heire and se the deposicioun of prewis takine upone the soumes of cattell and the avale tharof being pastorit vpone the lordschip & manys of craghall foresaid The saidis preuis being summond & personaly In Jugement comperand for to preif the said availe of the saidis soumes of cattell pastorit & tharto sworne/And than the said schireff deput maid the said Johnne clapame be oft tymes callit quhilk comperit nocht nore nane uthir procuratour in the tyme in to his name for to ansuere in the said actioune/the Jugis takand the deposicioun of the saidis witnes in the premissis as eftir followis In primis

Thomas phylp summond sworne & examinyt sais that the grond & manys of craghall will beyre in pastoring four score & ma of hyrdwyse nolt Alsua of scheip the said lordschip will pastore in gyrsing xviij score wytht the maire And xx^{ti} horsis in the said lordschip & in pastoring wytht the maire

Johne drybure citatus Juratus & examinatus conformys him to the fyrst preif

Thomas tod citatus Juratus & examinatus conformys him to the fyrst preif

Henry dempstertoune citatus Juratus & examinatus conformis him to the fyrst preif

Johne gerwese citatus Juratus & examinatus conformis him to the fyrst preif

The quhilk day the said schiref deput causit the foresaidis preuis be thar grete aitht tharto sworne for to depone the availe & price of the gyrse maile of the said soumes of cattell being pastorit & gyrsit in the said lordschip of craghall the quhilkis personis deponit Ilk horse pastoring iiij ℈/Ilk hyrdwysse nolt iij ℈ And for Ilk soume of scheip xxx ₫/Than the Jugis decernit & decreitit that williame lyndesay of pyotstoune to be contentit & payt be Johnne clapame of kerslogy for all & syndry thir soumes of cattell abone writine/the soumes of money foresaid/as he that come souerte to the said williame for

maister Alexander kynnynmontht anentis the sammyn eftir the deposicionis of the saidis personis & preuis be thar estimacionis And ordanis preceptis to be directit fore to pund & distrenȝhe the saidis Johnnis gudis for the sammyn etc

Upone the xvj day of Julii In the ȝhere of god j^{m} v^{c}/ & xx^{ti} ȝheris I Thomas grundistoun schiref deput passit to the mercat croce of the burgh of Couper And thar at the command of my lord patrik lord lyndesay of byris & schiref of fiffe/be the vertu of his office of the sammyn denuncyt James baxster in kingorne the kingis Rebell & put him to his horne as he that wes fugitiue fra his lawes & to wnderly the sammyn fore the slauchtir of ane callit Johnne thane pypare in kingorne/And als the said schireff maid the said James to be cersyt & soucht to hef fundine souerte tharupone/quhilk coutht nocht be apprehendit nochtwythtstanding he assignet to him fryday the xiij day of this Instant monetht for to cum to the mercat croce of the said burgh and to hef fundin the said souerte/ quhilk the said James failȝeit tharintill quharthrou the said James Is Rebell to our Souerane lord as said Is/this execucione I the said Thomas schiref deput maid before thir witnes george ertht aldirman of the said burgh James huchonsone Dauid Jamesone bailȝeis Johne of ferny Johnne baxster James henrysone & Thomas louchmalony Johnne bell williame dwne Thomas berwyk ane maire of the said schirefdome & Thomas ferry notar & scribe of the said court wytht utheris diuers

The quhilk day Thomas duncane in amerciament of court as he that wes lauchfully summond tharto be ane precept fore the hurting & blud drawine one Johne millare & nocht comperand fore the quhilk dome wes tharupone gevine amerciit

Upone the xxiij day of Julii In the ȝeire of god j^{m} v^{c}/ & xx^{ti} ȝeris In presens of ane honorable man Thomas grundistone schiref deput of fiffe henry heriotht stabilit creat constitute & ordanit ane discrete man Alexander procurator 57*v*

lesly 3oungar lard of pytnomone his verray lauchful procuratour Irreuocable actore factore & speciale erand berare in all & sindry actionis concernyng the said henry And in speciale to compeire before the schireff of fife ore his deputtis ane ore ma in the schiref court of fife to be haldine in the tolbutht of the burgh of couper this foresaid xxiij day instant And thar to ansuere at the Instance of Johnne clapame of kerslogy eftir the forme & tenore of his precepte tharupone maid ore quhatsumeuir dais concerning the said actione togydder wyth all clauses of procuratorii necessare in thir premissis etc

Curia vicecomitatus de fife Tenta in pretorio burgi de Cupro per discretum virum Thomam grundistoun deputatum vicecomitum de fiffe xxiiij die mensis Julii anno domini millesimo quingentesimo vicesimo Quo die Sectis vocatis Curia affirmata etc

[1] The quhilk day in the actioune & cause movet in Jugement be patrik sydserff of that ilk aganis Robert prop in ballinbeitht Elene cawf his modir thar & Symone lauerok thar for the wranguis occupy[i]ng lauboring & manuring of the saidis landis of ballinbeitht & pertinentis as in the said precept proportis the saidis parteis personaly in Jugement comperand [1]

decret of sydserff

The quhilk day in the action & cause movit in Jugement be patrik sydserf of that ilk upone Robert prop elene cauf & symone lauerok the occupiaris of the landis of ballinbeitht quhilkis persons wer lauchfully summond tharto be ane precept tueching the wranguis occupacione of the saidis landis as at maire lyntht in the said precept fullely is contenit the saidis persons & parteis being personaly present thai & Ilkane of thaim desyrand prelocutouris for thaim in the said actione quhilk wes admittit And the said patrik desyrand Maister Robert reid his prelocutor for him And the saidis Robert elene & symone desyrand schir Alexander romannos thar prelocutour

[1] Deleted.

Nochtwithtstanding the allegacioun & litescontestacion in Jugement maid be the foresaidis partes The said schiref witht the avyce of certane assessouris present fore the tyme hes of his office decernit & decretit that because patrik sydserfe of that Ilk had schawin ane assedacion of before of the hail landis of ballinbeitht maid to him be wmquhill Robert lawder of the bass knicht & to his subtennentis wnder the propire seile of the said wmquhill Robert & his subscripcione manuale that is to say for the space of xvj 3eris of the quhilkis xvj 3eris thar is certane 3eris & termes to ryne quhilkis in the said assedacione is contenit And tharfor the saidis personis lauchfully & ordorely summond to the forewritin day be ane precept quhilk wes clerely execute Indorsat & in Jugement producit/the foresaidis Robert elene & symone & als thar prelocutour in thar name denyit ony wrang done & al the punctis withtin the said precept contenit Neuirtheles the othir partii askand thaim to schau ony Just title ore richt quhy thai occupeit thai saidis landis considerand thai wer lauchfully warnit to remwf tharfra And als layd furtht in the ferd day in wytsonowk eftir the form & tenour of act of parliament tharupone maid And na title nore rycht schawine nore allegeit be thaim quharfor thai intromettit witht the sammyn/quharfor the Jugis hes decretit & decernit that thai sould devoid & red the saidis landis of ballinbeitht occupeit be the saidis Robert elene & symone And to be brukit & Joisit be the said patrik & his subtennentis induring the foresaidis termes contenit in the saidis Robertis lawder tak & assedacione maid to the said patrik & his subtennentis wnder his propire sele & his subscripcion manuale as said Is & fand that the saidis personis had done wrang in the occupacion of the sammyn sen the said term of witsonday last bypassit quhilk is in the 3ere of god J^{m} v^{c}/ & xx 3eris And quhar that schir Alexander romannos askit ane warandar to hef for the saidis personis/the Jugis repellit thaim to hef ony warandar because thai denyit the precept uterly & enterit in to pley be litiscontestacion maid ore that thai askit thar warandar Attour the said schiref hes decernit preceptis to be gevin

to the said patrik to summond witnes to the nixt court to preif the avail of the skaytht be thar occupacion of the saidis landis sen the said last term of witsonday as efferis & as to the precept quhilk this decret Is passit upone It is interitit in the schirefis buke To the quhilk decrete the seile of office of the schiref to thir premissis is affixit

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procurator

The quhilk day patrik sydserffe of that Ilk constitute creat maid [and] ordanit Richt discreit men that is to say Maister Thomas Wemys maister Robert Reid & maister Johnne spens James synclar and ewmond dyksone & Ilkane of thame coniunctlie & seueralie In to Jugement his verray lauchful & Irreuocable procuratouris actouris factouris & speciale messingeris that is to say in all & sindry actionis querellis & materis concerning the said patrik that is to say baytht to persew & defend in quhatsumeuir schiref court of fife And in speciale in the actione of summondis Impetrat be the said patrik upone Robert prop elene cawff his modir & symone lauerok quhilk Is [contenit in] ane precept tharupone maid & eftir the forme & tenore [of] the said precept & ony utheris preceptis tharupone to be direct Wytht al & sindry punctis necessare of ony maner of procuratorie concerning the saidis patrik viz in uberiori forma Ferme & stable hauldand & for to hauld in thir premissis And als to persew the saidis personis in the actionis contenit in the saidis preceptis wytht power to tyne & wyne & to substitute procuratouris wnder thaim gif neid beis ane ore ma etc

clapame

The quhilk day comperit in Jugement Johnne Ramkelour tennent of the mairetoune our Souerane lord his landis the quhilk Johnne confessit & planly grantit that he lecentit and gave leife to Johnne clapame of kerslogye for to cast certane fewell & peytis in the myre & grond of the maretoune to his propire wsse for the quhilk the said Johnne ramkeloure grantit that the said Johnne clapame had appleisyt recompensit & thankfully payt to him for the said lecence giffing as wsse Is in sic thingis at the wyll and pleiseire of the said Johne ramkelour

The quhilk day James tomsone oft tymes callit & nocht comperit as he that wes lauchfully summond to the foresaid court be ane precept as the Indorsing tharupone proportis that is to say in the actioun & cause betuix patrik sydserff Robert prop elene cawf his modir & symone lauerok fore the quhilk noncomperans the said James wes in amerciament of court & dome tharupone gevin amerciit

The quhilk day in the actione & cause persewit be george petcarne burges of kingorne aganis Johne multrare of seyfeild tueching the allegeit wranguis spoilȝeing fra him of iiij kye & ane stot [1] passand betuix kircaldy & kingorne fra the said georgis seruand the said Johne grantit the taking of the said cattell Neuirtheles the said george producit certane personis preuis summond tharto for to preve the said spoilȝe the quhilkis personis preuit the sammyn And [it] wes decernit in court the sammyn to be restorit agane to the partii withtin the term of law

Curia vicecomitatus de fife Tenta in pretorio burgi de Cupro per Thomam grundistone deputatum potentis domini Patricii domini lyndesay de byris vicecomitis de fife xxj° die mensis augusti Anno domini millesimo quingentesimo vicesimo etc

The quhilk day In the actioun & cause movit be Robert muncreif and maister [ ] [2] his prelocutor aganis Johnne beitoun of Creich as ane precept of summondis tharupone maid proportis wytht our Souerane lord the kingis lettres upone the sammyn as maire fullely in the sammyn Is contenit that is to say for to tak cougnicione gif that [George] [2] muncreif of tybermello & frow mait his spouse And the said Robert wes in possession of the landis of wrquhart sene the last terme of witsonday/thane In Jugement comperit Alexander spens in doumboug wytht our said Souerane lordis lettres & as schiref in that part dischargeand the said schiref of fife & his deputtis for to proceid ony maner of wyse in the said actione as the

[1] A young bull or ox.

[2] Blank in manuscript.

sammyn beyris quharfor the said maister [ ][1] prelocutor for the said Robert & in the actione protestit sayand that sene the said schiref wauld nocht tak cougnicione hereupone as our said souerane lordis lettres tharupone direct proportit & commandit that tharfor quhat wes done tharintil in the menetyme that It sould nocht hurt the said Robert of his possession being recently spoilȝeit & put furtht of the saidis landis of wrquhart sene this last Witsonday terme & als protestit fore the remeid of law tharintill tyme & place neidfull

58*v* Curia Capitalis vicecomitatus de fiffe Tenta in pretorio burgi de Cupro per honorabilem virum Willelmum[2] lyndesay de pitscowy[3] georgeum strang de balcasky et Thomam grundistoun vicecomites deputatos de fiffe et eorum quemlibet coniunctim & diuisim secundo die mensis octobris Anno domini m° v^c/o vicesimo Sectis vocatis Curia affirmata etc

Nomina absencium

s p Sauling
p blaksauling
s p bordland sauling
s rossitht
s p pitconnoquhy
s p cleich
p arngorsk
s p kynnescott
p kyrknes
s p louchquhoreschyre estir
s p louchquhoreschyre westir
s p coldrane & the maw
p glasmontht
p pittynweme
s p balcormo
p kynmux
s p creich
p drumclochquhop
p Reras
s p lord saltone for his landis of dalgathy
s p pynkertoune
s p pittethy
s p grange
s p ballindone
s p balgonnor

[1] Blank in manuscript.

[2] *Willelmum* superscribed over another word, probably *Johannem.*

[3] *pitscowy* [*pitcrowy* ?] superscribed over another word, apparently *piotstoun*, and *militem vicecomitem de fiffe* deleted immediately following. Presumably we should read *Willelmum lyndesay de piotstoun.*

p wemys westir
s p personaris of dysert except george ertht est part
s p personaris of west part dysert
s p clatty
p seras
p kelle
s admowty
s cassingra
s bawneile
s p balmontht
s p touch westir
s p estir touch & bogye
s p personaris of lumbenny
s p sauchquhop
s p luklaw
s p flysk
s p Anstrothir
p cullerny
p kylmarone

Secta

The quhilk day the lard of balcancoll enterit williame caydʒow soytour in court for the landis of balcancoll/tharto sworne euir & quhil he be dischargeit & to exerce the sammyn lelely & treuly etc

continuatur lundy lummisden

The quhilk day the actione & cause betuix Androw lundy of straherly one ane part & Johne lummisden of Ardre one that othir part Is be the consent of partii that is to say the said Johne being present for him self & schir Alexander [ ][1] chapellane procuratour for the said Androw continuit in al effect & forme as [it] now Is to the last day of october instant but preiudice of partii tharintill

amerciit

The quhilk day Robert Ryngane & margaret cristeson his spouse Ilkane of thaim in amerciament of court as thai that wes lauchfully summond tharto be ane precept as in the sammyn Is contenit for blud drawine & hurting of [ ][1] quhilkis personis non comperand dome wes tharupone gevine

amerciit

The quhilk day James sleich in Innerkeithing in amerciament of court as he that wes summond tharto for the hurting & blud drawing of [ ][1] And because that the said James comperit nocht the said day to ansuere at the Instans of our souerane lord & the schiref for the committing of the said blud bot absentit him the said James wes amerciit tharfor & dome tharupone gevine

[1] Blank in manuscript.

59r protestacio The quhilk day anentis the actioun of summondis maid be Alexander kyncaid upone maister James kynnynmo[n]tht maister Alexander kynnynmontht Johne mwre & Johne murray as in ane precept of summondis tharupone maid maire fullely Is contenit Nouchtwithtstanding Thomas berclay of the Rynd protestit that quhat euir wes done tharintill as than be the Juges ore ony uthir ore that wes decernit ore decretit tharintil that It sould nocht hurt the said Thomas nore turne him nore his richt & priuileige tueching the landis of the twapart of pitscotty westir & thar pertinentis [1] to preiudice [1] because he hed ane richt tharto anentis the saidis actioune of summondis And gif sa wer protestit for the remeid of law tyme & place neidfull

protestacio The quhilk day Maister Thomas wemys prelocutor for maister Alexander kynnynmontht allegiand him nocht lauchfully summond tharto And alsua James quhite & Johne bawdy producit for witnes be Alexander Kyncayd protestit that in tyme tocum the saidis personis ansuerit nocht in Jugement nore wer nocht callit tharto be the said Alexander one to the tyme thai had thar expensis at that tyme lauchfull according to Justice

continuatur The quhilk day the actioune of blud betuix Alexander sibbald of Ramkelour hew ferny & williame murray one ane part & henry lowsone in ferny [one that othir part] the saidis persons being present & callit Nochtwithtstanding the schirefis of thar offices hes continuet the said actioune as in ane precept tharupone mad Is contenit to the last day of october instant & the saidis parteis summond in Jugement tharto Apud acta

continuatur The quhilk day the actioune of blud committit betuix Johne proudfute & James burt as In ane precept tharupone directit mare fullely Is contenit the said schireffis of thar offices hes continuit the said actioune of blud to the last day of october instant And the saidis Johne & James to compeire before the schiref of fiffe ore his deputtis ane ore ma in the schiref court of fife to be haldine in the tolbutht

[1] Added in the margin.

of couper that day Ilk partii to ansuere to uthir tharintill And to our souerane lord & his schireffis foresaidis upone the said blud & the wyte of the sammyn wnder the panys of law Nochtwithtstanding [ ][1] chapellane procuratour for [ ][1] be ane power of the said [ ][1] producit in Jugement & red protestit that It sould nocht hurt the priuileige of the partiis And to hef power the said last day to oppone in contrare the Juge & membris of court concerning the said actione the said procuratour allegeand the sammyn to be replegeit Neuirtheles the said schireffis decernit the saidis parteis to ansuere in the said blud the said last day Apud acta

The quhilk day the actioune of summondis maid be maister Johne spens of mairetoune upone maister Thomas cunyngahame as [in] the precept of summondis tharupone maid maire fullely Is contenit the said actioune Is witht consent of partii continewit in hoyp of concord in all effect & forme as [it] now Is but preiudice of ony partii to the last day of october Instant And the saidis parteis summond tharto In Jugement Apud acta continuatur

Assisa 59v

Johnne clapame of kerslogye
Alexander sibbald of Ramkelour
Thomas forster of strahenry
Thómas berclay of the Rynd
Alexander louchmalony of that Ilk
Petir petblatho of that Ilk
George ertht of smetoun
Dauid tullo of hylcarny
Dauid balfour of evinestoune
Johne ramkelour of that Ilk
Alexander narne of pursk
Johne hay of fudy
Florentyne martyn of gyblestoune
Frances ramsay of foxtoune
Johne lummisden of Ardre

Qui Jurati dicunt quod Thomas balfour [2] filius [2] patrui [3] quondam Thome balfour patris Jonete balfour filie quondam dicte Thome burgensis de kingorne est propinquior

[1] Blank in manuscript.
[2] Added above the line.
[3] Originally *patruus*.

Agnatus Id est consanguineus ex parte patris Thome balfour antedicte Et quod ille propinquior excessit etatem xxv annorum Et quod est sue Rei prouidus ac ydoneus & potens cauere de administracione Rei aliene Et quod non est immediate successurus ipsi Jonete si Ipsam Jonetam contigerit infata decedere quia Ipsa Joneta habet fratrem ex eisdem patre et matre genitum et procreatum sibique successurum virtute tamen acti parliamenti super tutela confecti Idem Thomas tutor legitimus prefate Jonete esse reperitur etc

Curia vicecomitatus de fife tenta in pretorio burgi de Cupro per Thomam grundistone deputatum vicecomitum eiusdem decimonono die mensis octobris Anno domini m° v^c/o xx°

protestacio

The quhilk day comperit in Jugement maister James [1] kynnynmontht maister Alexander kynnynmontht wyth thar seruandis as thai that wes lauchfully summond tharto eftir the forme & tenore of ane precept Impetrate be Alexander kincaid & margaret crag his spouse as in the sammyn is contenit the said maister James protestit that he mycht [hef] priuilege to oppone in contrare the Juge & membris of court in the said actione And gif It wer procedit forthir tharintill protestit for remeid of law tyme & place convenient to him for to persew the sammyn

The quhilk day the said maister [2] Alexander [2] offerit him to preif in to Jugement that the said schiref deput wes suspect to be Juge to him in ane actione of spoilȝeit contenit in ane precept allegeand that the said schiref wes Inemy to him because that the said schiref had rydding & passit in contrare the said maister [3] James [3] & of his lyfe quharthrou he aucht noucht to be Juge to the said maister [3] James [3] in the said actioune upon the quhilk allegeans offerit him to preif incontinent the sammyn

[1] *Alexander* deleted and *James* added above the line.
[2] Superscribed over *James*.
[3] *Alexander*?

upone the quhilk the said maister [1] James [1] askit ane Instrument

The quhilk day maister [2] James [2] kynnynmontht allegeit that he wes noucht lauchfully summond to the said court nothir personaly nore at his habitacione quhilk [3] is [3] in wemys quharfore as he allegeit he aucht noucht to ansuere as than to na maner of attachment maid upone him & for ony actione contenit in ane precept tharupone Impetrait at the Instans of Alexander kyncaid & his spouse quharfor the said maister James|protestit that gif thar wes ony thing to be proceidit tharintil in his contrare be the said Juge for the remeid of law tym & place neidfull [4] upone the quhilk he askit ane Instrument witnes petir petblatho of that ilk laurence bural of newtone David tullo of hilcarny Thomas Inglis in ardet & John ferny in couper [4] Instrumentum

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The quhilk day Alexander kyncayd producit in Jugement our souerane lordis lettres direct to the schiref of fiffe & his deputtis chargeing thaim for to tak sikker souerte & lawborrowis of certane persons quhilkis the said Alexander wauld mak faitht that he dred bodely harme of/contenit in ane byll of the quhilkis persons the said maister James wes ane principale tharof quhilk the said Alexander deponit his aitht In Jugement tharupone And than the said maister James offerit to the said schiref his brothir maister Alexander kynnynmontht lawborgh for him as law wauld the quhilk the said schiref refusyt because the said maister Alexander wes noucht landit man & tharfor the said maister James protestit that considerand he offerit to him the sammyn in Jugement that in tyme tocum It sould noucht turne the said maister James in preiudice in the premissis Attour the saidis maister Alexander & maister James In Jugement protestit for thar expensis as than because as thai allegeit ane part of thaim wes noucht lauchfully tharto summond be

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[1] *Alexander*?
[2] *Alexander* deleted and *James* added above the line.
[3] Added above the line.
[4] Added later.

thir partii at thar principale habitacione nore personaly And the uthir part because thir partii wes wnder process of the officialis lettres of sanctandrois than in to Jugement producit be the said maister James quhilkis lettres wes admittit that tharfor in the tyme tocum thai sould noucht ansuere at the Instans of thir partii wythtout thai hed thar expensis of thaim as efferis

The quhilk day Alexander kyncayd producit in Jugement & schew our souerane lordis lettres direct to the schiref & his deputtis chargeing thaim ore ony ane of thaim to tak sikker souerte & lawborrois of certane persons quhilkis he his wyf & seruandis dred bodely harme and wald mak faytht of the sammyn And than the said schiref askit the saidis names of persons at the said Alexander quhilkis names eftir followis that is to say maister Alexander kynnynmontht tutour of craghall maister James kynnynmontht his brothir williame mwre Johne mwre Johne traile Johne murray petir henrisone & Thomas tailȝeour the quhilkis persons the said Alexander deponit the gret aitht upone ane croce that he dred bodely harme of/& thane the said schiref passit wytht our said Souerane lordis lettres to the mercat croce of the burgh of couper And thar be oppine proclamacione commandit & chargeit al the foresaidis persons that thai sould compeire befor the schiref of fiffe ore his deputtis vythtin viij days eftir the said proclamacione And to fynd the said souerte & lauborrowis eftir the forme & tenour of the saidis lettres and wnder the panys withtin the sammyn contenit

The quhilk day in the actioun & cause of spoilȝe betuix Alexander kyncaid one a part And maister Alexander kynnynmontht maister James of kynnynmontht wytht thar complecis [one that othir part] as in ane precept of summondis tharupone maid to the said Alexander kyncaid & his spouse maire fullely in the sammyn is contenit the said maister Alexander & maister James witht thar complecis comperand and siclyk the said Alexander and Thomas berclay of the Rynd his forspeikar askit the saidis

precept to be put to execucioune witht al & sindry the punctis in It contenit neuirtheles the said maister James producit in Jugement ane lettir of contimax upone the said Alexander quharthrou he mycht noucht persew nane actione as that day in Jugement And than the said schiref maid the saidis maister Alexander maister James & the persons contenit in the said precept to be summond| 60v
personaly in Jugement for to compeire befor the schiref of fife ore his deputtis ane ore ma in the nixt schiref court of fife to be haldine in the tolbutht of couper upone [1] settirday [1] the [2] x [2] day [of nouember] [3] that nixt cumis [3] to ansuere at the Instance of the said Alexander & his spouse eftir the forme & tenour of his precept & Apud acta

The quhilk day patrik Reid accusyt for the thyftwys steling of ane ox being present in the menetyme the said patrik wes als accusit for commone thyft for the quhilk [the] said patrik wes fylyt upone the saidis punctis & actionis And dome gevine upone him that he sould be hangyt on ane gallus quhill he wer deyd etc suspensus reid

Curia vicecomitatus de fife tenta in pretorio burgi de Cupro per Thomam grundistone deputatum eiusdem xix° die mensis octobris Anno domini m° v° xx°

The quhilk day Dauid anderson being in Jugement & producit witht twa muttone scheip the said Dauid grantit the sammyn lauchfull And than incontinent Thomas scott siclyke comperand in Jugement askand the said muttonis sayand that he wald awow thaim gif ony persone wauld persew thaim wnlauchfully takine And that he send the said scheip wytht his seruand the said Dauid to abyrnethty to his syster brydale offrand him to abyd & wnderly the knawleige of ane assyse tharintil than the said schiref put the said actioun to the assise wnderwritine anderson & scot

[1] *Wednisday* deleted and *settirday* added in the margin.

[2] *last* deleted and *x* added in the margin.

[3] *of octobere instant* deleted and *that nixt cumis* added in the margin. The reference must be to the court held on tenth November, see *infra* p. 197.

Assisa

Williame seitoun of ramgally	patton burnkyl
Thomas days	Johne symsone
Johne lame	Johne tailȝeour
patton donaldsone	Thomas rogear
James layng	Thomas brayd
Robert henrison	Dauid michel
Thomas burnkyl	

The quhilk day in the actione abone writine the foresaidis personis assisouris tharto sworne furtht of court passit Riplie & weile avisit havand god & gud consciens befor thar ene In court Returnit agane And be the moutht of williame seitoun of Ramgally chancellor of the said assise pronuncit & deliuerit al in ane voce concordand that the said Dauid andersone & Thomas scot wes maid fre & clene of al maner of stoutht ore wranguis taking ore having of the said scheip And attour preuit thaim lauchfully boucht be the said Thomas at [ ][1] michel ballingall in dumboug quhilk in the mene tyme he grantit the selling of thaim And preuit the sammyn be the merkis of the skynnis & of thar heydis etc

Curia vicecomitatus de fife Tenta in pretorio burgi de Cupro per Thomam grundistoune deputatum eiusdem ultimo die mensis octobris Anno domini m° v^c^/ xx° etc

protestacio

The quhilk day in the actione of summondis maid of befor be maister Johne spens of the maretoun upone maister Thomas cunyngahame eftir the tenour & forme of the said precept/the quhilk actione witht consent of partii wes continewit at the schiref heid court haldine in the tolbutht of couper upone tysday the secund day of october that last wes in hoyp of concord to this last day of the
61*r* sammyn monetht as the actis|of court tharupone maid proportis nouchtwithtstanding the said maister Johne come noucht to persew nore follow the said maister Thomas of

[1] Blank in manuscript.

the said actioun quharefor he protestit of remeid of law and for his expensis because thar wes na persone to persew him tharupone And that in tyme tocum he sould noucht ansuere in the said mater withtoutine his expensis to be pait as efferis

The quhilk day the breif of Inqueist Impetrat be James lundy of balgony upone the landis of caudcoittis henry sibbald passit at the schiref [command] to the tolbutht dure of the sammyn burgh of couper askand gif thar wes ony persons to obiect aganis the punctis of the said brief that thai sould compeire than for thar Interes & Justice to be ministerit upone the quhilk thar comperit nane quharfor Robert aiton procuratour for the said James protestit & askit the said breif to be put to the knawlege of the Inqueist wnderwritine

ASSISA

Thomas forster of strahenry
George strang of balcasky
Alexander sibbald of ramkelour
Alexander louchmalony of that Ilk
Petir petblatho of that Ilk
George ertht of smetoune
Johne clapam of kerslogye
Alexander narne of sandfurd
florentyn martyn of gyblestoune
Dauid tullo of hylcarny
frances ramsay of foxtoune
Dauid balfour of ewinstoune
Johne hayc of fudye

Qui Jurati dicunt quod quondam Andreas lundy de balgony miles pater Jacobi lundy de balgony [1] latoris presencium [1] obiit ultimo vestitus et saisitus ut de feodo ad pacem & fidem Supremi domini Regis de uniuersis & singulis terris de cauldcoittis cum suis pertinenciis Jacentibus infra vicecomitatum de fife Et quod dictus Jacobus est legitimus et propinquior heres eiusdem quondam Andree militis patris sui de predictis terris cum pertinenciis Et quod est legitime etatis Et quod prescripte terre cum

[1] Added in margin.

pertinenciis valent nunc per annum [ ][1] libris monete currentis scocie Et quod tempore pacis valuerunt [ ][1] Et quod tenentur in capite de domino de kylcunquar barone baronie eiusdem per seruicium warde et releuii Et quod prefate terre cum pertinenciis existunt in manibus domine de kylcunquar racione coniuncte[2] infeodacionis superioritatis earundem per decessum dicti quondam Andree militis ob non etatem heredis legittimi Jus suum hactenus minime prosequi volentis seu recuperantis Ad spacium septem annorum et trium mensium aut eocirca ultime elapsorum In quorum fidem etc

The quhilk day In the actioun & cause movet be Andro lundy of straherly upone Johne lummisden of Ardre as in ane precept of summondis be the said Andro Impetrat maire fullely in the sammyn Is contenit And the said actione witht consent of partii wes in the last heid schiref court of fife haldine in the tolbutht of couper the secund day of october instant continewit in hoip of concord to the said last day of october And because the said Johne lummisden comperit noucht as than to ansuere in the said mater the said Andro than askit the said schiref for to proceid tharintill according to Justice Attour the said Andro producit & schew in to Jugement ane obligacione of the said Johnis under his propire seile & subscripcione manuale that is to say for to warrand acquet & defend the said Andro & [ ][1] mailvilne his spouse [and] thar airis of al maner of Impediment Interrupcione ore pley that thai ore ony ane of thaim had ore mycht hef
61v In and to the sext part of all &|sindry the landis of straherly witht thar pertinentis And to keip thaim & Ilkane of thaim skaithtles eftir the forme & tenore of the said Johnis chartir maid to thaim tharupone The quhilk extendis 3erelie to xx s̃ j đ oƀl as in the said precept Is contenit nouchtwythtstanding the said Andro hes bene trublit wexit & distren3eit for the said soume be Thomas Inglis wyf of carny be the termes of fyve 3eris bypassit

[1] Blank in manuscript.

[2] The manuscript has *coniunctle*.

to his grete dampnagis & skaytht Quharfor the schiref witht his assessouris barronis & frehaldaris being present in Jugement hes decernit & decretit that the said Johne lummisden of Ardre sall content and pay to the said Andro al the mailis & profittis bypassit of the said sext part of straherly quhilkis 3erelie extendis to the soume abone writine togydder witht his coistis skaythtis & expensis maid & sustenit be him tharthrou in persute of the sammyn be estimacione of tene schillingis And that in tyme cuming the said Johne to warrand defend & keip the said Andro his wyf & thar airis skaithles of the said sext part of the landis of straherly & thar pertinentis eftir the forme & tenour of his chartir maid to thaim tharupone

The quhilk day Johnne brymsyd in gaitmylk Dauid brymsyd his sone and Thomas brymsyd duelland in the Ryale Ilkane of thaim in amerciamentis of court as thai that wes lauchfully summond tharto be ane precept of the schireffis as the Indorsing of the sammyn proportis the quhilkis personis comperit noucht that is to say for to ansuere at the Instance of Johne bennat eftir the forme & tenour of the said precept And for the blud drawing of the said Dauid brymsyd [*Johne bennat* ?] & hurting of him witht ane ax for the quhilk noncomperans thar wes dome gevine tharupone And that the saidis personis to be summond to the nixt court to ansuere upone the punctis of the said precept Apud acta amerciit

The quhilk day comperit maister James kynnynmontht maister Alexander kynnynmontht & Johnne mwre in Jugement callit at the Instance of Alexander kincayd & margaret crag his spouse for the spoliacione & away taking of certane gudis contenit in ane precept as wes allegeit And for the eiectioun of thaim furtht of thar housis of westyre pitscotty as at maire lyntht Is contenit in the said precept It wes allegeit be the said maister Alexander for him self & als forespeikar for the Remanent of the persons abone writine that the said Alexander kyncayd & margaret his spouse hed na persone to persew xix° octobris

thar said actioune because thai wer wnder proces of cursing And producit ane lettir Indorsat berand the sammyn effect/swa the excepcione proponit be the said maister Alexander wes fundin of avale And than incontinent Thomas berclay of the Rynd forespeikar for the said Alexander kyncaid & margaret his spouse askit the saidis persons to be summond than in Jugement upone the punctis contenit in the said precept/than the said schiref deput commandit Thomas berwik to do the sammyn And than the said Thomas berwik mare summond warnit & chargeit the saidis maister James maister Alexander & Johne mwre personaly Apud acta to compeire befor [1] patrik lord lyndesay of the byris Johne maister lyndesay of petcrowy knicht schireffis of fyfe ore thar deputtis ane ore ma in the nixt schiref court of fife to be haldin in the tolbutht of couper the x day of nouember that nixt cumis in the hour of cause to ansuere at the Instance of the saidis Alexander kyncaid & margaret crag his spouse
62r for the|wranguis allegeit spoliacione [2] & away taking of iiij oxone price of the pece iiij merkis twa horsis price of the pece v merkis & ane halbert price x s̃ furtht of thar landis of pitscotty westir And als for the eiectione & furtht putting of the saidis Alexander & margaret his spouse of thar housis of the foresaidis landis of pitscotty And to here thaim & Ilkane of thaim adiugeit & decernit to restore the saidis gudis as thai wer takine ore than the availe & price foresaid And to here & se the witnes sworne & admittit to preve the sammyn And for coistis skaithtis & expensis sustenit be the saidis Alexander & margaret for the wanting of thar saidis gudis & eiectioun of thaim furtht of thar housis as sal be artiklit at maire lyntht wytht Intimacioun as efferis And attour the said Thomas berwik mare summond Andro greg Johne bawdy James quhite & Robert henrisone to compeire the saidis day & place to beire suthfast witnes in the premissis quhilkis execucione the said Thomas maid in presens of the said schiref & of the haile court

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[1] *the* deleted here.

[2] *of* deleted here.

Curia vicecomitatus de fiffe tenta in pretorio burgi de Cupro per Thomam grundiston deputatum eiusdem decimo die mensis nouembris Anno domini m° v^c/o vicesimo etc

The quhilk day comperit in Jugement Robert 3oung & presentit ane writing allegeand the forme of ane kingis lettre wnder the subscripcione of certane lordis And the said Robert as schiref in that part askand the said schiref to put the sammyn to execucione til be put eftir the tenour of the sammyn the quhilk the said schiref refusyt because our said souerane lordis signet wes nocht set tharto upone the quhilk the said Robert tuke documentis tharupone

The quhilk day the said schiref deput offerit him to obey our souerane lordis lettres and wes al tyme reddy tharto And because the said Robert 3oung schew nocht the kingis Signet at the writingis be him producit & schawine And that Robert muncreif quhilk presentit in Jugement our Souerane lordis lettres wnder his signet concerning the sammyn actione that tharfor the said schirefe wauld put that lettre to execucione according to the tenore of the sammyn

The quhilk day the said schiref causit ane maire to pas til the tolbutht dure And thar be oppine proclamacione askit gif thar wes ony persone to produce and schaw ony lauchfull assedacione of the landis of wrquhart pertening to our Souerane lord the king acclamet be Robert muncreif as our said souerane lordis lettres tharupone in Jugement schawin ore gif that [thar wes] ony lauchful premunicion maid to the said Robert & frow mait his modir befor the last terme of witsonday for to remufe tharfra eftir the consuetud of the Realme quharfor that the saidis frow & Robert aucht to be put furtht of the saidis landis of wrquhart witht thar gudis occupeit be the saidis frow & Robert at the said terme the quhilk thar come na persone in the mene tyme thane the said schiref deput procedit upone the kingis lettres producit be the said Robert tharupone And put the sammyn to execucioun eftir the forme & tenour of the sammyn etc

Nomina Inquisicionis et assise

Thomas berclay of the Rynd
Dauid berclay of touch
Johnne forster of newtoun
William seitoun of Ramgally
Dauid dougles
Maister Johne lyndesay
Frances ramsay of foxtoune
Petir huchonsone
Frances tullus
Dauid Ramsay in couper
Johne sqwyer

muncreif

The quhilk day In the actioun and cause movet betuix frow maite the Relict of wmquhil george muncreife of tybermello And Robert muncreife now of tybermello hir sone on ane part And Johne beitoun of creich on that uthir part That is to say anentis the spoilȝeing of the saidis frow & Robert thar cattell and gudis And the furtht putting of the sammyn furtht of the landis of wrquhart And on putting of the saidis Johnnis cattell & gudis upone the sammyn landis & grond of wrquhart the saidis frow
62*v* and Robert being closyt withtin termes as | wes allegeit Upone the quhilkis the foresaidis frow and Robert producit our Souerane lordis lettres in the fyrst and secund formes direct to the schiref of fife and his deputtis chargeing thame to tak cougnicione gif that the saidis frow & Robert wer in possessioun of the saidis landis of wrquhart eftir the terme of witsonday that last wes And nocht lauchfully warnit befor the said terme to remufe & flitt tharfra And gif sa wer fundin be the said Inqueist for to keip & defend the saidis frow & Robert in possession of the saidis landis of wrquhart eftir the forme of our said Souerane lordis lettres and as in the sammyn is contenit The foresaidis personis of Inqueist hering the saidis lettres thane being in Jugement tharto sworne ryplie & weile avisit havand god & gud consciens befor ene considerand the punctis of the sammyn furtht of court passit in court retournand agane all concordand And be the moutht of Johnne forster of the newton chancellar of the said Inqueist pronuncit & deliuerit That the foresaidis frow mait & Robert muncreife wer in possession of the saidis landis of wrquhart at the terme of witsonday last bypassit And wnordorely put tharfra be the said Johne beitoun because

the saidis frow & Robert wer noucht lauchfully warnit befor the said terme of witsonday that last wes for to flitt & remufe tharfra And als that because the said Inqueist gat na maner of euident nore presentit to thaim quharthrou the said Johne micht hef interesse tharto richtwisly tharfor the saidis frow & Robert wer closit withtin termes And aucht noucht to remufe quhil the said terme of witsonday that nixt cumis And attour for the maire effect in the premissis the foresaid schiref deput causit Johne hertishyd maire to pas to the tolbutht dure of couper And thar be oppin proclamacione askit gif ony persone wauld cum in Jugement pertening to the said Johnne beitoun for to preif thar lauchfull Interes In & to the foresaidis landis of wrquhart And lauchful premunicion making to the saidis frow & Robert for to remufe & flitt thaim self & gudis furtht of the saidis landis befor the terme of witsonday that last wes for the ministering of Justice quhilkis thar comperit nane thane the foresaid schiref decretit the foresaidis frow & Robert for to bruke thar possessionis of the foresaidis landis eftir the forme & tenore of our said Souerane lordis lettres upone the quhilk the said Robert askit in Jugement the Rolment of court tharupone togydder witht his testimoniale wnder his seile of office quhilkis wer grantit And als preceptis to be gevine hereupone according to the deliuerance & decret abone exprimyt etc

protestacio

The quhilk day in the actioun & cause of spoilȝe be Thomas berclay of the Rynd forspeikar for Alexander kyncaid & margaret crag his spouse upone maister James kynnynmontht maister Alexander kynnynmontht & Johne murray Johne mwre as wes allegeit the saidis maister Alexander for him self & maister James Johne & Johne protestit that he micht hef lauchfull cause & excepcione to oppone & declyne the Juge & membris of court because of Inimyte betuix the said schiref & him And anerand to his protestacion maid in the last court siclyke offerand him to preif the sammyn etc

protestacio

The quhilk day that because the excepcione proponit

be the said maister James wes noucht admittit as thane And als that thai wer noucht lauchfully summond tharto as thane nore at the last court as wes allegeit that tharfor the said maister James for him & his brothir protestit for the remeid of law tyme and place convenient etc And attour the said maister Alexander & maister James allegeit that thai aucht noucht to ansuere because thai gat na coppy of thar summondis wythtin xv dais as the act of parliament proportis And als the said maister James allegit that the summondis wes noucht lauchfull because the persone that thai wer summond at his Instans to that [cause] he wes nemmyt noucht [be] ane rycht surname allegeand thai callit him kincayd quhar his rycht name wes stensone And attour the said maister James allegeit that he aucht noucht to ansuere as thane because the libell contenit twa punctis of summondis that is to say ane for spoilȝe and ane othir for eiectioun of his partii furtht of thar housis & toftis etc

63*r* The quhilk day thomas berclay forespeikar for Alexander kyncaid & his wyf as tueching | the excepcionis proponit be maister James kynnynmontht and maister Alexander his brothir as is abone exprimit quhilkis be decreit of court be the schiref & his assessouris wes noucht admittit to thar partii askit the said schiref to proceid in the said mater & super hoc cepit Instrumentum And als the said Thomas allegeit that the saidis maister James & maister Alexander had pretermittit all punctis contenit in the act maid in the court of befor/And offerand him to preif in to Jugement the lauchful possessione of the grond & spoilȝe contenit in the sammyn act Nouchtwithtstanding the said schiref deput affermyt that he sat noucht upone the grond of pitscotty concerning the richt tharof bot upone the spoilȝe contenit in the said act

The quhilk day the said maister James exponand that quhar Thomas berclay forspeikar for Alexander kincayd renuncit al the punctis of ane precept & the said precept quhilkis thai wer summond witht to the last court except

the act quhilk wes maid in the said last court and the punctis wythtin It contenit thane the saidis maister Alexander & maister James grantit in Jugement that thai tuke the gudis contenit in the said act because of mailis profittis & dewiteis awing of the landis of pitscotty & the tennentis occupeand the sammyn of termes bypassit And als because thai foresaidis landis [wer] wardit in the lard of craghallis handis & the tutouris tharof protestand that thar sould na witnes be takine tharupone anentis the gudis takine upone the said grond because thai wer takine for the mailis profittis & dewiteis awing tharof as said Is/Maire attour the said maister James allegeit that thare sould na witnes of spoilȝe be takine upone the eiectione of the said Alexander & his wyf furtht of thar housis of pitscotty because It is contenit in the kingis maieste as he allegeit that the lard may put hand in his landis of subtennentrye in default of mailis & dewiteis awing to him & as ourlord tharof quharfor the said maister James protestit that thai sould noucht be condempnit in the punctis contenit in the said act for the causis abone exprimit & sa wer protestit for remeid of law etc

Deposiciones testium in causa precedente inter Alexandrum Kincaid margaretam crag eius sponsam ex una et magistros Jacobum Kynnynmontht Alexandrum Kynnynmontht partibus ab altera/et sequuntur

James quhite summond sworne & accusit deponit that the said Alexander & his wyf wes in possessione of the landis of pitscotty westir as the act beiris the tyme of thar eiectione tharof & put furtht be maister James kynnynmontht & maister Alexander witht thar complicis And that thai tuke fra thaim furtht of thar saidis grond & pleucht gangand in pitscotty westir four oxone & twa horse price of Ilk ox & hors ourheyd ij merkis quhilk the said James swore in Jugement that Ilk pece of the saidis oxon & horse wes of that avale the tyme of the avay taking of thaim be the saidis maister James & maister Alexander witht thare complicis furtht of the said grond of pitscotty

Robert henrison summond sworne & accusit conformys him to the fyrst preif in al & sindry the thingis abone exprimit

Johne bawdy summond sworne & accusit conformis him to the fyrst preif in al thingis as Is abone writine but discrepans

Andro greg summond sworne & accusit siclyke in al thingis conformys him to the fyrst preif in maner & forme abone writine wythtout varians

Kyncaid & Kynnynmontht

The quhilk day in the actioune of spoilzhe persewit in Jugement be Alexander kyncaid and margaret crag his spouse upone maister James kynnynmontht tutour of craghall maister Alexander kynnynmontht wytht thar complicis as [in] the actis of court tharupone of befor maid maire fullely Is contenit that is to say of the spoliacione of four oxone & twa horse furtht of thar pleuch & grond of pitscotty westir And als for the wranguis eiectione & furthtputting of the saidis Alexander & his spouse furtht of thar housis & toftis of pitscotty westir/The foresaidis maister James & maister Alexander [1] being lauchfully summond upone xv dais [1] comperand in Jugement & allegeand & proponand that Thomas grundistone schiref deput aucht noucht to be Juge to thaim in the said actione because he wes thar Inemye as thai allegeit And askit the Interloquitour of court tharupone the quhilk
63*v* excepcione sa proponit It wes fundin | of nane availe be Interloquitore of court foresaid Nouchtwithtstanding the said Thomas schiref deput qwyt him self tharupone And than the saidis maister Alexander & maister James allegeit that the foresaidis Alexander kyncaid & his spouse wes wnder processe of cursing be the officialis lettres led tharupone and hed na persone to persew thar said actione & producit ane lettre berand the sammyn than Thomas berclay of the Rynd forespeikar for the saidis Alexander & margaret producit & schew in Jugement ane absolucione Indorsat that the saidis Alexander & margaret wer absoluit fra that cursing & al maner of uthir Neuirthelesse the saidis

[1] Added in margin.

maister Alexander & maister James proponit diuers utheris excepcionis as thar documentis & actis of court tharupone maid proportis the quhilkis excepcionis wes in lykewes be Interloquitouris of court [fundin] of nane avale Thane the schiref deput askit at the saidis maister Alexander & maister James gif thai wauld wsse ony uthir defences anentis the said actione of spoilȝhe/the quhilkis personis allegeit that thai hed proponit & schawine diuers of before quhilkis mycht suffice of law the schiref deput than callit & maid to be callit diuers witnes summond to the preif [of] the said spoilȝe the quhilkis personis tharto sworne & examinit preuit that the saidis Alexander kyncaid & margaret his spouse wes in peceable possessione & in wsse of the twapart of the landis of pitscotty westir togydder wytht toftis & houses of the sammyn And as thai wnderstud wer wnlauchfully put fra the lauboring & occupeing of the sammyn be the saidis maister Alexander & maister James but officiar ore ordore of law And that thai tuke & spoilȝeit fra the saidis Alexander & margaret furtht of thar pleuch in the said ground of iiij oxone [1] & twa horse price of the pece [2] is xl s̃ [2] be thar estimacione & aithtis than the said schiref deput decernit adiugeit & decretit that the saidis maister Alexander & maister James dyd wrang in the taking & spoilȝeing of the saidis gudis & als in the eiectioun of the saidis Alexander & margaret furtht of thar howsis & toftis foresaid And the sammyn to be restorit agane to the partii baytht to thar howsis & gudis gif thai mycht be apprehendit And failȝeing tharof the price foresaid And thaim & Ilkane of thaim in amerciamentis of court for the said wrang & als assithtment to the partii as Is according to Justice [3]

Curia Capitalis vicecomitatus de fife Tenta in pretorio burgi de Cupro per Nobilem et potentem dominum Patricium dominum lyndesay de byris Johannem magis- 64*r*

[1] *xl s̃* appears to be added above the line here.
[2] Added above the line and *twa merkis* deleted.
[3] *upone the quhilk dome wes gevine hereupone* deleted here.

trum lyndesay de pitcrowy militem vicecomites de fife Ac eciam prouidos viros viz Johannem lyndesay filium & apparentem heredem Johannis lyndesay de pitcrowy antedicti willelmum lyndesay de piotston similiter vicecomites creatos Walterum heriotht de burnturk & georgeum strang de balcasky eorum deputatos et eorum quemlibet coniunctim [1] & diuisim [1] viij° die Januarii Anno domini m° v^c/o vicesimo Sectis vocatis Curia affirmata Absentes patent etc

Nomina absencium

p s Sauling	p glasly sibbald
p s brodland sauling	s cassingray
p s pitconnochquhy	p balcormo
p s cleich	p kerslogy
p s kynnescot	p s lord saltone for dalgaty
p kyrknes	p s balgonnor
p s personaris of disert	p s balmontht
p s clatty	p s sauchquhop
p kyncrag	p s cammerone
p Reras	p Wemys westir
p kelle	p balgony

amerciit

The quhilk day Johne fettas and Robert lousone Ilkane of thame in amerciamentis of court as thai that wer lauchfully be ane precept summond tharto til hef comperit And to hef ansuerit at the Instance of williame smytht in condelane as the Indorsing of the sammyn proportis for the quhilk non comperans thar wes dome tharupone gevine And the said Johne & Robert to be summond to the nixt court at the Instans of the said williame Apud acta

protestacio

The quhilk day comperit in Jugement maister Johne spens procuratour for Robert aitone in dunmwre be his lettre of procuratorie producit & admittit protestand that he mycht oppone & except be lauchful ressonis contrare the Jugis officiaris & al membris of court in the actione & cause betuix williame baxster of quylt & the said Robert quhilkis he wes summond tharto at the Instance of the

[1] Repeated in the text.

said williame as ane precept tharupone directit proportis And als protestand that quhat euir the schiref dyd ore procedit tharintil in contrare the said Robert in the said action fore the remeid of law tyme & place convenient

The quhilk day the said maister Johne procuratour foresaid producit in Jugement ane write subscriuit be certane lordis of consale thar handis as wes allegeit askand the sammyn to be Red & put to execucione eftir the tenour of the sammyn than the said schiref refusyt sayand that because It wes nocht Signet witht our Souerane lordis signet and be that cause it aucht nocht to hef effect as than quharfor the said Maister Johne protestit for remeid of law [2] & tharupone askit Instrument etc [2] Instrumentum [1]

The quhilk day patrik lord lyndesay of the byris And Johne maister lyndesay of pitcrowye knicht schireffis foresaid presentit In Jugement our Souerane lordis lettres of commissioun wnder the priue Seile of the gift & constitucioune newlingis of thaim togydder witht Johne lyndesay the sone & aperand aire to the said Johne maister & williame lyndesay of pyotstoun coniunctlie & seueralie in the office of schirefschip of the schirefdome of fife And maid the sammyn be red And thareftir be thar grete aithis sworne deponit upone the said commissione that thai & Ilkane of thaim sould wsse & exerce the said offices lelely & treuly eftir the forme of the said commissione And thareftir cheisit thomas ferry in the office of clerkschip of the said schirefdome/And als chesit henry sibbald Johne squyer & thomas berwyk sergeandis of the said schirefdome quhilkis personis deponit be thar aithis to exerce the said offices lelely & treuly euir & quhil thai wer dischargeit etc

The quhilk day the actione of spoilȝe betuix williame baxster & Robert aiton wes lauchfully preuit & the avale of the gudis as the deposicionis of personis tharto summond & sworne proportit

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[1] Originally *protestacio* and overwritten.

[2] Added later.

64*v* Curia capitalis vicecomitatus de fiffe Tenta In pretorio burgi de Cupro per Andream lundy de Straherly Alexandrum lyndesay et Thomam grundistoun deputatos vicecomitum de fife nono die mensis Aprilis Anno domini m° v^c /o xxj° Sectis vocatis Curia affirmata Absentes patent

Nomina absencium

p s Dauid lyndesay of cavil mare of fe of the quarter of [ ][1]
p s Maister Johne spens mare of fe of the constabillary of carale
p s sauling
p brodland sauling
p s Rossitht
p drone
p s pytconnoquhy
p s cleich meldrum
p s cleich allerdes
p s kynnescot
p crambetht
p kyrknes
p glasmont
p s newtoune
p balgony
p burnturk
p s clatty
p Rerass
p kelle
p Ardre
p s Admowty
p s gyrsmarstoune
p perbroitht
p s Dunboug
p s flysk
p Drumclouchop
p Nauchtane
p s lathalland
p cammo
p lord saltone for his landis of dalgaty
p s tyry & seyfeild
p ballindone
p condelane
p s tullyboyll byssat
p s balgonwar
p bawneyll
p estir touch & bogy
p s sawchop
p s cullerny
p s straithore
p s luklaw
p [2] pyttyncreif
p s cammerone
p balcancoll

Secta Quo die Johannes hay de fudy Intrauit Johannem logy sectatorem curie pro terris suis de cassingra qui suum Juramentum prestitit ad huiusmodi officium usquedum exoneretur

[1] Blank in manuscript.

[2] *s* deleted.

Quo die Johannes drummond de flashyll Intrauit clementem broun sectatorem curie pro terris suis de flasshyll simili modo usquedum exoneretur Secta

Nomina Inquisicionis

Johnne wardlaw of torry
Thomas forster of strahenry
Alexander gourlay of kincrag
Alexander narne of sandfurd
George strang of balcasky
Alexander sybbald of Ramkelour
Alexander louchmalony of that Ilk
Johnne seitoune of lauthresk
Dauid tullo of hylcarny
frances ramsay of foxtoune
Johnne haye of fudy
Thomas ballingall of Ryggis
Johnne drummond of flashyll

The quhilk day as tueching the actioun & clame maid be cristiane spens upone Johne seitoune of balberny anentis certane soumes of mony aucht to hyre be the said Johnne as hir precept tharupone maid proportis & in the sammyn contenit It wes be the schireffis decretit in Jugement that the said Johnne seitoun sould content & pay to the said cristiane the soume contenit in hir said precept betuix this day and the nixt schiref court to be haldin in the said tolbutht upone the last day of this Instant monetht of Aprile ore thane to preif hyre payt of hir said clame because Johne seitone of lauthresk ansuerit as procuratour for his brothir in the premissis continuit

The quhilk day in the actioun & cause movet betuix katrine gawy & williame lausone of ane catyll as in ane precept tharupone to the said katrine maid mare fullely Is contenit the schireffis deputtis of thar office hes continuit the said actione in al forme & effect as It now Is And the said williame Is summond in Jugement to ansuere to the said katrine eftir the forme of the said precept & to compere the last day of this Instant monetht of Aprile in the schiref court to be haldin in the tolbutht of couper Apud acta 65r continuit

procurator

The quhilk day williame lausone constitut & ordanit dauid gregour his procuratour Irreuocable in all actionis concerning him & in speciale anentis the defence of ane catill acclamyt at him be katrine gawy & promittit to hauld ferme & stable in the premissis

citacio noua in Judicio

The quhilk day Alexander schethum of caskelpy wes personaly summond in Jugement to compere befor the schirefis of fife ore thar deputtis ane ore ma In the schiref court of fife to be haldin in the tolbutht of couper upone tysday the last day of this Instant monetht of Aprile to ansuere at the Instans of dauid tullo of hylcarny for the wranguis withthalding fra him of the soume of iiij libris because of iiij bollis of beyre sauld to him be the said dauid the space of thre ȝeris bypassit & deliuerit to the said Alexander be Andro boyst & his modir & the said Alexander to ansuere Apud acta

continuit

The quhilk day katrine gawy protestit in Jugement that as anentis the actioun & clame of ane catill quhilkis Is in the handis and possessione of [1] williame lausone dependand in the law & wndecydit eftir the forme & tenore of hir precept maid tharupone quhilk actione Is continuit be the schiref of his office to the last day of Aprile Instant & the partis tharto summond Apud acta & that tharfor gif the said williame wauld persew ony coistis ore expensis upone the said katrine anentis the said actione that scho sould be exonerit tharof because the said williame Is now attachit upone the said mater to the last day of Aprile Instant And the partiis tharto Is summond Apud acta

amerciit

The quhilk day Thomas makquhatane in amerciamentis of court for the wyte of the blud committit & drawine upone him be Alexander lassellis in Innerdowat for the quhilk thar wes preceptis directit at the said Thomas Instans for to summond the said Alexander upone the said blud & wauld nocht persew the sammyn that tharfor the schiref maid the sammyn to be callit in our Souerane lordis name And als the said Alexander quhilk wes sum-

[1] The manuscript has &.

mond & comperit nocht for the committing & blud drawing of the said blud as the Indorsing of the said precept beiris for the quhilk the said Alexander wes in amerciamentis of court for non comperans & dome gevine tharupone

The quhilk day laurence hagy in amerciamentis of court amerciit as he that wes lauchfully summond tharto & comperyt in Jugement at the Instance of Janat peyt Nouchtwythtstanding because the said laurence wauld noucht remane & ansuere to the punctis contenit in the said Janat precept tharupone direct/bot masterfully & contempnandly passit furtht of court he beyng oft tymes callit agane tharto in the contempning of our Souerane lord the king & his schireffis the mater being wndecidit as said Is/for the quhilk thar wes dome gevine tharupone And ordanit preceptis to be directit to the officiaris for to pund & distrenȝe incontinent the said laurence gudis for his wnlaw of the said contempnyng And als It wes decreitit in the said court that because It wes allegeit that the said Janat wes wnder proces & mycht noucht persew hir [1] actione that scho sould be absoluit & the said laurence to ansuere to hyre in this court because It Is dependand in the sammyn of before [2] as [2] the actis of court tharupone proportis according to Justice

The quhilk day cristiane spens lady of Ramkelour wes terce be the said Inqueist seruit of hir ressonable terce of al & sindry the landis of Ramkelour nethir witht the mylne & pertinentis of the sammyn to the quhilk scho befell the schaddo cawill

Deposiciones testium productorum per Thomam boswell de stantoune de uno equo sibi spectante existente in manibus willelmi smytht in condelane 65*v*

Henry cristesone [2] summond [2] sworne & accusit deponit as to the hors clamyt be the said Thomas being in the handis of williame smytht in condelane of broune collour than being producit to the tolbutht dure In safer as he

[1] The manuscript has *his*.

[2] Added above the line.

knawis & wnderstandis wes the said Thomas & wes takine furtht of his place in stantoune

Dauid Ireland summond sworne accusit & examinit deponit conformand to the fyrst preif [1] sayand that he trowit the said hors wes the said Thomas boswellis [1]

Williame cok summond sworne accusit & examinit deponit in lyk wys conformand him to the preiffis precedand

George broune summond sworne accusit & examinit deponit all conformand to the previs abone exprimyt in all thingis

Curia vicecomitatus de fife tenta in pretorio burgi de Cupro per Thomam grundistone deputatum eiusdem vicesimosexto die mensis Aprilis anno domini m° v^c/o xxj°

Assisa

Alexander schethum of caskelpy	Alexander pryd
Duncan Jamesone	Andro symsone
Johne pyot	Alexander foulartoune
Williame smytht in ramelry	Williame lylle
Robert millar	Williame howye
Thomas logy	Walter alansone
Thomas prat	Williame robertsone
Andro lousone	Patrik millar
Dauid tomsone	Thom tomsone
James daugleich	Johne robertsone
	Johne watsone

suspensus sympill

The quhilk day Alexander sympill being in Jugement wes Inditit for the thyftwys steiling furtht of Johne clapamis berne of kerslogy of certane quheit extending to sex firlotis the quhilk quheit wes present in the tyme And als for the thyftwys steiling of beyre aitis & quheit diuers tymes bypassit And richtsa for the thyftwys [steiling] of twa heyland kye the foresaid Alexander being accusyt upone the forsaid punctis oppinly confessit &

[1] Added later.

grantit the sammyn Attour the said Alexander accusyt for commone thyft the foresaid assise furtht of court passit & returnyt in the sammyn agane And be the moutht of Johne pyot chancellar of the said assise fylyt the foresaid Alexander & coutht noucht acquyt him of commone thyft than the Juge causyt dome to be gevine hereupone that the said Alexander sould be had to the gallous & hangyt tharupone quhil he wer deyd

Curia vicecomitatus de fife tenta in pretorio burgi de Cupro per Andream lundy de straitherly et Thomam grundistone deputatos eiusdem ac eorum quemlibet coniunctim & diuisim ultimo die mensis Aprilis Anno domini m° v^c/o vicesimoprimo etc 66r

Nomina Inquisicionis & assise

Petir creichtoun of Nauchtane knicht
Dauid Spens of wylmerstone
Maister Johne spens of mairctoune
Andro bonar of freiretoune
Alexander louchmalony of that Ilk
Alexander Narne of pursk
Johne haye of fudye
Johne seitoun of lauthresk
Thomas haye of sandfurd
Johne seitoune of balbyrnye
[*Alexander*] [1] myrtoun of Randelstone
frances ramsay of foxtoune
Johne lassellis of Innerdovate
Dauid pitblatho of that Ilk
Dauid tullo of hylcarny

The quhilk day comperit in Jugement James spittale & offerit him to freitht & warrand williame smytht in condelane of ane hors sauld be him to the said williame quhilk hors wes acclamyt & challangeit be Thomas boswell of stantoun & pertenit to him The said hors being in the mene tyme producit & present/the foresaidis schireffis causit the said hors to be apprisit be certane personis tharto sworne/the quhilkis personis apprisit the sammyn to iij ℔/than the said James askit in Jugement ane day

[1] Blank in manuscript.

for to call & warrand to him the said hors to the quhilk the foresaid schireffis deputtis assignet to the said James tysday the xxviij day of maii that nixt cumis for to compeire & produce his warrand of the said hors/And for the maire securite hereintil to be had anentis the premissis Johne seitoun of balbyrnye become souerte to the schireffis for the said James as law will etc

protestacio

The quhilk day maister Robert reid prelocutor for Thomas berclay of the Rynd protestit that he mycht hef the priuilege of law to oppone contrare the Juges officiaris & all membris of court in the actione betuix Alexander wemys of myrecarny & the said Thomas And quhat wer done in thar contrare tharintill protestit for the remeid of law

The quhilk day Dauid gregore prelocutor for Alexander wemys askit in Jugement at Thomas berclay of the Rynd for to schaw ane Just title anentis the occupacione of the landis of logye witht thar pertinentis And because the said Thomas schew that tyme na maner of writingis nore documentis bot be Interloquitour of court that the said Thomas had wsse of lauboring & manuring of the saidis landis of logye/quhilk as thai allegeit mycht suffice for ane title as that tyme of the quhilk the said dauid prelocutor protestit for the Remeid of law And attour quhar the said dauid proponit diuers utheris excepcionis in the said actione quhilkis wes noucht admittit siclyke protestit of Remeid of law tyme & place convenient

The quhilk day Thomas grundistoun schiref deput confessit that he causit henry sibbald maire for to summond in Jugement williame lausone upone the ix day of Aprile last bypassit be the vertu of his office for to ansuere at the Instance of katrine gawye to this court eftir the forme & tenour of ane precept tharupone direct of befor and upone the punctis in the sammyn contenit as the actis tharupone maid proportis

Qui Jurati dicunt quod quondam dauid kynneire dominus porcionarius de strobyrne frater Alexandri

kynneire latoris presencium obiit ultimo vestitus & saisitus ut de feodo ad pacem & fidem Supremi domini nostri Regis de una tercia parte omnium & singularum terrarum de strobyrne cum suis pertinenciis Jacentium in baronia de Rossitht & Infra vicecomitatum de fife/et quod dictus Alexander lator presencium est legitimus et propinquior heres eiusdem quondam dauid fratris sui de dicta tercia parte terrarum de strobyrne cum suis | pertinenciis et quod 66*v*
est legitime etatis et quod predicta tercia pars terrarum cum suis pertinenciis valet nunc per annum quinque marcis monete currentis scocie et tempore pacis [valuit] decem solidis [1] & quod tenetur in capite de domino de luchquhald per seruicium albefirme soluendo Inde annuatim unum denarium monete scocie ad festum penthecostes si petatur tantum Et quod dicta tercia pars terrarum de strobyrne cum pertinenciis existit in manibus Ipsius domini de luchquhald Juste racione decessus dicti quondam dauid fratris sui ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium quatuor ebdomadarum ultimo elapsarum aut eocirca In quorum etc

Curia vicecomitatus de fife tenta in pretorio burgi de Cupro per Alexandrum lyndesay & Thomam grundistone deputatos vicecomitum eiusdem et eorum quemlibet coniunctim & diuisim vij° die mensis maii Anno domini m° v^c/° vicesimoprimo etc

Nomina Inquisicionis

Johne clapam of kerslogy
Alexander sibbald of Ramkelour
Alexander louchmalony of that Ilk
Dauid tullo of hylcarny
Johne Ramkelour of that Ilk
Williame baxster of qwylt
Johne haye of fudye
Johne muncur of the montht
Dauid pitblatho of that Ilk
Alexander schethum of skelpy
Alexander wemys
Johne of ferny
Dauid Ramsay

[1] The manuscript has *solidos*.

Qui Jurati dicunt quod quondam Jacobus Ramsay burgensis burgi de Cupro Auus dauid lyndesay de montht latoris presencium obiit ultimo vestitus & saisitus ut de feodo ad pacem et fidem Supremi domini nostri Regis de toto & Integro uno annuo [redditu] octo marcarum usualis monete regni scocie annuatim percipiendo & leuando de omnibus et singulis terris de munquhany cum suis pertinenciis Jacentibus Infra vicecomitatum de fife Et quod dictus Dauid presencium lator est legitimus & propinquior heres eiusdem quondam Jacobi aui sui de predicto annuo Redditu cum pertinenciis et quod est legitime etatis Et quod dictus annuus redditus octo marcarum cum pertinenciis tantum valet nunc per annum quantum valuit tempore pacis et quod tenetur in capite de domino de Munquhany per seruicium albe firme soluendo inde annuatim unum denarium monete scocie ad festum penthecostes si petatur tantum Et quod dictus annuus redditus octo marcarum cum pertinenciis existit nunc in manibus dicti domini de munquhany superioris eiusdem per Resignacionem elezabetht balfour Relicte quondam dicti Jacobi sui sponsi que eundem habuit in coniunctam Infeodacionem Racione non Introitus heredis legitimi Jus suum hucusque minime prosequentis scilicet in Ipsius defectu ad spacium quatuor ebdomadarum aut eocirca In quorum fidem

Curia vicecomitatus de fife tenta in pretorio burgi de cupro per Thomam grundistone deputatum eiusdem octavo die mensis maii anno domini m° v$^{c/o}$ xxj° etc

Nomina assise

Henry balfour
Robert boswell
Andro murray
Thomas senzeour
Andro multray
Henry makky
Walter scott
pattone greig
Dauid balmane
Johne lowrye
Robert quarzeour
Patrik murray
Dauid quhite

The quhilk day Niniane forster Inditit & accusit for the slauchtir of Johne low upone forethoucht fellony And anys strak him witht ane trunschcour staf upone his heyd that in the mene tyme the said Johnis harnys [1] come furtht And thareftir ane uthir tyme straik him witht ane knyf & slew him The foresaid assise herand the said accusacione and dittay maid tharupone furtht of court passit Returnand agane al in ane voce concordand And be the mouth of the said Robert boswell pronuncit & deliuerit that thai coutht noucht acquit the said Niniane for the quhilk crime It wes concludit|be the Juge the said Niniane to be haid to the heyding hyll & thar his heyd to be strikine fra his body & dome tharupone gevine etc decollacio forster 67r

Upone the xxv day of maii In the 3ere of god J^m v^c/ xxj 3eris forsamekle as Thomas grundistone schiref deput of fife passit to the mercat croce of Innerkeithing And thar be oppine proclamacione commandit & chargeit in our Souerane lord the kingis Name Robert chalmer/Thomas chalmer & Henry chalmer/for to compere befor the schiref of fife ore his deputtis to fynd souerte for till wnderly the law for the slauchtir of george bell in westir baldonye as the law requiris tharto wnder the panys of putting of the saidis personis to our Souerane lordis horne/& to escheit al thar movable gudis to our said Souerane lordis wse And the sammyn to be fundine be the saidis personis withtin viij dais nixt & immediat here eftir in maner & forme as said Is And in the mene tyme soucht & sercyt the foresaidis personis to hef fand the sammyn at thar habitacionis quhilkis coutht noucht be apprehendit

Upone the thrid day of Junii In the 3here of god abone writine Thomas grundistone schiref deput foresaid passit to the mercat croce of the burgh of couper And thar be oppine proclamacione causit Thomas berwyk maire generale of the said schirefdome command warne & charge Robert chalmer Thomas chalmer & Henry chalmer to hef comperit befor the schiref of fife ore his deputtis as that this

[1] Brains.

foresaid day wes assignet to thaim of befor/to hef fundine sowerte for til hef wnderlying the law for the cruell slauchtir of george bell in westir baldonye Nouchtwythtstanding the said Robert chalmer being fugitive contempnalye and noucht comperit for to hef fundine the said souerte as said Is bot absentit tharfra for the quhilk the said Robert wes denuncit our said Souerane lordis Rebell and put him to his horne as wse Is And escheitit al his movable gudis applyand the sammyn to his wsse be consuetud of the Realme Neuirtheles the saidis Thomas chalmer & Henry chalmer comperand the said day and noucht bringand wytht thaim personis for thar souerteis in the said actioune that tharfor the said schiref deput hes assignet thaim viij dais eftir myssomer day that nixt cumis for to cum thane & fynd thar souerteis for to wnderly the law upone the said slauchtir wnder the panys foresaid

xxviij° die mensis maii anno domini m° v^c/o xxj° in curia vicecomitatus eiusdem tenta in pretorio burgi de Cupro per Thomam grundiston deputatum etc

protestacio

The quhilk day James spittale producit in Jugement certane prewis witnes tharto summond anentis his warrand of ane hors acclamyt be Thomas bosuell of stantoune And attour comperit siclyke Johne gyb duelland in anaquhrytht & warrand to the said James the forsaid hors And the saidis persons producit for witnes in the premissis tharto summond wes examinyt and deponit tharintill as thar deposicionis tharupone proportis/And inclusyt/And because thar come na persone to obiect nore Impung Incontrare the saidis preuis nore thar deposicionis in the mene tyme that tharfor the said James for him self and williame smytht in condelane protestit for thare dampnagis skaythtis & expensis be thaim sustenit in the defence of the said hors of befor & be thame & Ilkane of thaim maid tharintill And for the remed of law tyme & place convenient And askit preceptis at the Juge to summond thar partii hereintil quhilkis wes grantit

The quhilk day in the actioune & cause betuix williame lausone & his spouse on apart williame nicholl & his spouse on ane uthir part tueching ane coppir catill as actis of court tharupone proportis of befor Is witht consent of parteis continuit in hoyp of concord to the xxvij day of Junii that nixt cumis And gif the parteis agreis noucht in the mene tyme for to compere to the said xxvij day and the saidis williame & williame [and] thar spousis summond in Jugement tharto Apud acta continuatur

The quhilk day Thomas wod Inditit & accusit for the thyftwis steling fra Allane Ramsay of ane hors And als of ane gyllat [1] fra [ ] [2] quhilkis hors and gyllat wes tayntyt reydhand wytht the said Thomas & broucht to the tolbutht stare nouchtwythtstanding the said Thomas being accusit upone the said thyft confessit the sammyn in Jugement Neuirtheles the said assise furtht of court passit/in the sammyn returnand agane deliuerit & fand the said Thomas the thyftwys steillar of the saidis hors and gyllat be his confession & grant And als of commone thyft for the quhilk thai coutht noucht qwyt him tharof thane the Juge & schirefe deputte foresaid decernit the dome to be gevin that the said Thomas sould be haid bundyne to the gallos & hangyt tharone quhil that he wer deyd upone the quhilk dome wes gevine etc 67*v* suspensus wood

Curia Vicecomitatus de fife Tenta in pretorio burgi de Cupro per Thomam grundistone deputatum eiusdem xxvij^{o} die mensis Junii Anno domini m^{o} v$^{c/o}$ xxj^{o} Sectis vocatis Curia affirmata etc

Nomina sectorum absencium

s beitht
s sauling
s blaksauling
s brodlandsauling
s sandfurd
s kyncrag
s reras
s Ardre

[1] A filly, or young mare.

[2] Blank in manuscript.

s Rossitht
s cleich
s louchquhourschire estir
s glasmontht
s tacesse
s barony of seras
s Ardros
s kinbrakmontht
s cassingra
s balcormo
s drumclouchop
s kyttaty & cragsunquhar
s sauchquhop
s wedderisby
s dempstertoun
s hylcarny d.t.

Nomina assise & Inquisicionis

Alexander teruat of that Ilk
Alexander louchmalony of that Ilk
Petire pitblatho of that Ilk
Johne allerdess of skathowy
Alexander skougale in crowy
Dauid gardine
Dauid balfour
Dauid greigore
Elize of teruat
Thomas carale
Thomas louchmalony
Henry cristesone
Petire petirsone

amerciit

The quhilk day Johne fettas in amerciament of court for non comperans as he that wes lauchfully summond tharto be ane precept as the Indorsing of the sammyn proportis to hef ansuerit at the Instans of williame smytht in condelane eftir the tenour of the said precept & dome tharupone gevin

continuatur

The quhilk day Johne allerdes of skathowy producit certane personis summond tharto be ane precept for to hef borne witnes in ane actione betuix him & [Williame Smytht] [1] eftir the tenore of the said precept nouchtwitht-standing the schiref of his office & for debilite of court hes continuit the ressauing of thar deposiciones & causit Johne squier maire to summond the saidis personis in Jugement to compeire in the nixt schiref court/quhilk Is the xvj day of the monetht of Julii that nixt cumis & to depone in the said actione contenit in the said precept

68*r*
continuatur

The quhilk day the actioun of blud betuix williame smytht & Johne allerdes of skathowye & Johne fettas his

[1] Blank in manuscript. Name derived from record of next court.

seruand Is wytht consent of partii continuit to the xvj day of Julii that nixt cumis And the saidis parteis summond in Jugement for to compeire tharto Apud acta & eftir the forme & tenore of the said precept And attour the said schiref deput hes of his office & als for debilite of court continuit the said actione as said Is to the forsaid xvj day etc

The quhilk day the actioun & cause betuix williame lausone in disert & williame nichol thar Is be consent of dauid gregore procuratour for ane part/And the said williame [lausone] [1] being in Jugement him self continuit in hoyp of concord in all effect & forme as [it] now Is to the xvj day of Julii that nixt cumis And the saidis dauid procuratour for the said williame [nichol] [2] & the said williame [lausone] [1] summond in Jugement tharto Apud acta continuatur

Qui Jurati dicunt quod quondam magister Jacobus dogud frater germanis walteri dogud latoris presencium obiit ultimo vestitus et saisitus ut de feodo ad pacem et fidem Supremi domini nostri Regis de totis & integris quinque acris terrarum de flaskhill cum pertinenciis Jacentium infra dimedietatem baronie de Nauchtane & vicecomitatum de fiffe Et quod dictus walterus presencium lator est legitimus et propinquior heres eiusdem quondam magistri Jacobi fratris sui de dictis quinque acris cum pertinenciis et quod est legitime etatis/et quod dicte quinque acre terrarum cum pertinenciis valent nunc per annum triginta tribus solidis & quatuor denariis monete currentis scocie/et quod tempore pacis valuerunt tridecim solidis & quatuor denariis eiusdem monete Et quod tenentur in capite de Johanne drummond domino de flaskhill per seruicium albe firme soluendo dicto Johanni annuatim tanquam domino superiori earundem unum denarium si petatur tantum/et quod dicte quinque acre terrarum cum pertinenciis existunt in manibus prefati Johannis tanquam superioris [2] earundem racione qua supra

[1] Blank in manuscript. Names derived from the procuratory on p. 134.

[2] The manuscript has *superior*.

per decessum dicti quondam magistri Jacobi ob defectum heredis legitimi Jus suum hactenus minime prosequentis ad spacium trium mensium aut eocirca. In quorum fidem etc

Curia vicecomitatus de fife Tenta In pretorio burgi de Cupro per Thomam grundistoun deputatum eiusdem xvj^{o} die mensis Julii Anno domini m^{o} v$^{c/o}$ xxj^{o} etc

amerciit The quhilk day Thomas boswell of stantone in amerciament of court for non comperans as he that wes summond of befor be ane precept to the xxvij day of Junii that last wes & continuit to this court as the actis of our bukis proportis & to hef ansuerit at the Instans of williame smytht eftir the tenore of his precept tharupone direct upone the quhilk non comperans dome wes gevin tharupone

amerciit The quhilk day Johne allerdes of skathowy in amerciament of court for non comperans as he that wes continuit to this court for to ansuere at the Instans of williame smytht eftir the tenour of his precept & dome tharupone gevine Nouchtwithtstanding the schiref of his office hes continuatur continuit the said actione to the nixt heid [1] schiref [1] court eftir michaelmes that nixt cumis/And decernit that Intimacione be maid to the said Johne & to compere & ansuere that day Apud acta

continuatur The quhilk day in the actione & cause betuix williame lauson in disert & williame nicholl thar Is be the consentis of dauid gregore & schir dauid cristesone thar procuratouris continuit in all effect & forme as [it] now Is in hoip of concord to the nixt heyd schiref court eftir michelmes that nixt cumis but preiudice of partii And Ilk partii to ansuere to utheris that day Apud acta

The quhilk day in the action & cause mouet be george petcarne & his spouse upone george sybbald in sconye as ane precept tharupone maid proportis/comperit in Juge-

[1] Added above the line.

ment Williame turnbule officiar to my lord of Sanctandrois & Regalite of the sammyn And producit ane commissione of my lord priour vicar generale wnder his Seile/quhilk wes red & admittit & Replegeit the said george sibbald to the said Regale court of Sanctandrois & assignet the law dais eftir michaelmes [1] that nixt cumis [1] that is to say the heyd court of the said Regalite that day to the said george petcarne for Justice to be done & had to the partiis as law will And fand walter olyphant in carny culrahaitht to the schiref deput for the sammyn the quhilk be his hand wphaldin the schiref ressauit in maner as said Is

The quhilk day the breiff of Inqueist Impetrate be Maister williame [2] knollis [2] Rectour of kynnettillis Is be consentis of the said maister williame for him self And of Dauid greigour in the name & behawe of Issobell petcarne his spouse continuit in all effect & forme as It now [is] & but preiudice of partii In hoip of concord to tysday the xxiij day of Julii Instant And the parteis foresaid warnit tharof Apud acta 68*v* continuatur breve

xxiij° die mensis Julii

The quhilk day the foresaid breif of Inqueist Is be the consentis of the said maister williame for him self one ane part And Isobell petcarne the spouse of Dauid gregour & thé said Dauid for his Interes tharto one that uthir part continuit in hoip of concord to the mununday the xxix day of the sammyn monetht Instant of Julii & Als but preiudice of partii that day til proceid according to Justice & the saidis parteis tharof warnit Apud acta

Curia vicecomitatus de fife tenta in pretorio burgi de Cupro per Thomam grundistoune deputatum eiusdem xxiiij° die mensis Julii Anno domini m° v^c/o xxj° etc

[1] Added in margin.

[2] Added above the line.

NOMINA ASSISE

Maister Johne spens of maire-toune	Andro greiff
Frances Ramsay of foxtoune	Laurence boyst
Alexander balcomy	Johne williamesone
Thomas louchmalony	James daugleich
Thomas williamesone	Duncan Jamesone
Androw luklaw	Andro symsone
James seitoune	waltir [1] alansone
Johne saull	williame robertsone
	Alexander pryd

suspensus lyddale

The quhilk day Robert lyddale Indityt and in Jugement for the thyftwys steling accusit of twa scheip of Johne baxsteris of the quhilkis ane part of the flech tharof wytht tauch [2] & skyne being thane present And for the thyftwys steiling fra Alexander robertsone of a certane woll wytht ane doublet/ane payre of hoyse ane payre of scheitis witht utheris gudis quhilkis siclyke wes present & broucht And als for the thyftwys steiling fra Andro furtht his house of ane caldrone ane certane of heklyt lynt [3] & of ane burdclaytht the saidis gudis being present & in Jugement producit/And attour accusit for commone thyft/ The foresad assise hering the accusacione foresaid furtht of court passit ryplie & weile avisyt In court retournyt agane all concordand in a voce & to ane effect/And be the moutht of Maister Johne spens chancellar of the sammyn pronuncit sayand that he coucht noucht qwyt the said Robert lyddale of the poyntis contenit in the said dyttay & of commone thyft/For the quhilk It wes decernit decretit & gevine sentens that the said Robert lyddale sould be haid to the gallos & tharon hangyt quhill he wer deyd & tharupone dome gevine

CURIA vicecomitatus de fife tenta in pretorio burgi de cupro per Thomam grundistone deputatum eiusdem xxix^{o} die mensis Julii anno domini m^{o} v$^{c.o}$ xxj^{o} etc

[1] *williame* deleted.

[2] Tallow.

[3] Dressed flax, *i.e.* flax which has been passed through a hackling-comb.

NOMINA ASSISE & INQUISICIONIS

Alexander cristesone
Johne ferny
Dauid Jamesone
Petir huchonsone
James huchonsone
Petir hatmakar
Johne moncur of the montht
Maister Johne spens of maire-stone
James rawet
Andro fogo
James henrisone
[1] Alexander robertsone
Dauid gyb
Johne Jonsone
Johne clerk

Qui Jurati dicunt quod quondam Alexander knowis frater magistri willelmi knowis rectoris de kynnetlis latoris presencium obiit ultimo vestitus & saisitus ut de feodo ad pacem & fidem Supremi domini nostri Regis de uniuersis & singulis [terris] dimedietatis omnium & singularum terrarum de baublay cum certis aliis terris & cottagiis ac pertinenciis earundem Jacentium Infra burgum de faulkland et vicecomitatum de fife Et quod dictus magister willelmus presencium lator est legitimus & propinquior heres eiusdem quondam Alexandri fratris sui de predicta dimedietate terrarum de baublay & aliis certis terris cum cottagiis ac pertinenciis earundem et quod est legitime etatis et quod dicte terre & pertinencie valent nunc per annum vigenti marcis usualis monete Regni scocie et tempore pacis [valuerunt] quatuor libris eiusdem monete Et quod tenentur in capite de Supremo domino nostro Rege per seruicium feodifirme Reddendo inde annuatim dicto domino nostro Regi quatuor libris monete predicte cum firma burgali debita & consueta et quod nunc existunt in manibus Isobelle petcarne Relicte quondam Alexandri knowis antedicti racione coniuncte infeodacionis earundem terrarum sibi desuper habite per decessum dicti quondam Alexandri sui sponsi ob defectum legitimi heredis Jus suum hactenus minime prosequi volentis ad spacium vigenti annorum aut eocirca In quorum fidem etc

[1] *Andro f* deleted here.

69*r* Curia vicecomitatus de fife Tenta in pretorio burgi de Cupro per Andream lundy de straherly et Thomam grundiston deputatos eiusdem xvij die mensis septembris Anno domini m° v^c/o xxj° Sectis vocatis Curia affirmata Non obstante tempus feriatum de quo per literas Regias despensatum etc

Nomina assise & Inquisicionis

Johne clapam of kerslogy
Johne Inglis in teruat
Dauid kynneire of that Ilk
Alexander Wemys of carny
Williame Ramsay of brekmontht
Williame bruce of erlishall
Alexander teruat of that Ilk
Alexander louchmalony of that Ilk
Alexander narne of sandfurd
Thomas hay of sandfurd
Dauid tullo of hylcarny
Petir pitblatho of that Ilk
Johne lassellis of Innerdovate
george ertht of smetoun
Alexander skougall in crowy

instrumentum The quhilk day the breif of Inqueist of James creichtoun lauchfully proclamyt & execut in al punctis & na obiectione maid in the sammyn the quhilk be the Inqueist wes seruit eftir the forme of thar peticione & clame etc

instrumentum The quhilk day the breif of terce of katrine turing producit be williame ruthirfurd hir procuratour wes be the said Inqueist seruit eftir the tenour of hir clame & na Impediment upon the quhilk the said williame askit ane Instrument etc

The quhilk day maister Johne leithtane producit in Jugement ane lettre of lecens of our Souerane lord the kingis for the despensacion of certane breuis that is to say ane breif of Inqueist of our said Souerane lordis Impetrat be James creichtoun of cranstone ryddale the sone of wmquhill patrik creichtone of cranstone ryddale knicht & ane breif of terce of katrine turane the Relict of the said wmquhill patrik knicht quhilkis lettres wer direct to the schirefis of fife & thar deputtis nouchtwythtstanding the feriat tym of herwyst upone the quhilkis thai wer obeyt And be

the despensacione foresaid the saidis master Johne & williame procuratouris admittit the said lettres & askit the saidis breuis for to be put to execucione eftir the tenore of the sammyn & wes be the Jugis admittit etc

Qui Jurati dicunt quod quondam patricius creichton de cranston ryddal miles pater Jacobi creichton latoris presencium obiit ultimo vestitus & saisitus ut de feodo ad pacem et fidem Supremi domini nostri Regis de omnibus & singulis terris de clwny cum tenentibus tenendriis et libere tenencium seruiciis ac earundem pertinenciis Jacentibus infra vicecomitatum de fife & Regalitatem de dunfermling Et quod dictus Jacobus presencium lator est legitimus & propinquior heres eiusdem quondam patricii patris sui de predictis terris de clwny cum suis pertinenciis & quod est legitime etatis Et quod predicte terre de clwny cum suis pertinenciis valent nunc per annum quadraginta duabus marcis monete currentis scocie et quod tempore pacis valuerunt tribus [1] libris eiusdem monete et quod dicte terre de clwny cum pertinenciis tenentur in capite de abate & conuentu de dunfermling monasterii per seruicium warde & releuii soluendo ipsis annuatim xx s̃ dicte monete ad duos anni terminos usitatos & consuetos Et quod dicte terre de clwny cum suis pertinenciis nunc sunt in manibus dictorum abbatis saltem prioris conuentusque dicti monasterii de dunfermling a tempore decessus dicti quondam patricii qui obiit per spacium quatuor mensium ultimo elapsorum aut eocirca ob defectum dicti Jacobi heredis Jus suum Interim minime prosequi volentis In quorum fidem etc

Qui Jurati dicunt quod quondam patricius creichtoun de cranston ryddall miles obiit ut supra etc & quod katerina turing sponsa dicti quondam patricii militis haberet suam racionabilem terciam omnium & singularum terrarum de clwny cum tenentibus tenendriis & libere tenentium seruiciis earundem Jacentium infra vicecomitatum de fife & regalitatem de dunfermling extendentem

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[1] The manuscript has *tres*.

ad terciam partem xlij marcarum usualis monete regni|
69v scocie annuatim nunc per annum et tenentur in capite de abbate & conuentu monasterii de dunfermling per seruicium warde & relcuii soluendo annuatim dictis abbati & conuentui summam sex solidorum & octo denariorum eiusdem monete pro sua tercia dictarum terrarum de clwny cum earundem pertinenciis ad duos anni terminos consuetos & quod dicte terre cum pertinenciis sunt in manibus dictorum abbatis saltem prioris & conuentus dicti monasterii de dunfermling a tempore decessus dicti quondam patricii militis sui sponsi qui obiit per spacium quatuor mensium ultimo elapsorum aut eocirca In defectum dicte katerine marite eiusdem quondam patricii militis Jus suum Interim minime prosequi volentis In quorum fidem etc

Curia Capitalis vicecomitatus de fife Tenta in pretorio burgi de Cupro per Andream lundy de straitherly georgeum strang de balcasky & Thomam grundistone deputatos eiusdem et eorum quemlibet coniunctim & diuisim primo die mensis octobris Anno domini m° v$^{c/o}$ xxj° Quo die sectis vocatis Curia affirmata absentes patent etc

Nomina absencium

p beitht
s p sauling
p blaksauling
s p brodland sauling
s p Rossitht
s p Dron
s p petconnoquhy
s p clech meldrum
s p cleich allerdes
s p forgy
s p kynnescot
p crambetht
p kyrknes
s p glenduky
s p dunboug beitone
p flisk
s p creich
p pytcullo
s p luchoris ramsay
s p hylcarny teruat
s p fordale except henrison
p colyston

s p louchquhoreschire estir
s p louchquhoreschire westir
personaris p wemys westir
s p est part dysert
personaris s p west part dysert/ except ertht
p Wauchton
p dorye
p balgony
s p schethum
personaris s p burnturk
s p clatty
s p quyltis
p kyncrag
p Reras
s p admowty
s p gyrsmeston & kyrklandis
p cammo
s p lord salton for dalgaty
s p pynkertoun
s p balbot
s p tullyboill bys-sat
s p balgonwar
s p balneyll
s p balmontht
s p Anstrothir
s p balhowfy & gordonshall
s p sauchquhop
s p wedderysby
s p pyttincreif spens
s p casch
personaris s p maw
s p balcanquholl
s p west bernys

The quhilk day the schiref deputis of thar offices hes continuit all actionis concerning this court at this present tyme for debilite of court to the xxij day of october nixt tocum in al effect & forme as now is & all parteis warnit in Jugement tharupone Apud acta etc

Curia vicecomitatus de fife Tenta In pretorio burgi de cupro per Thomam grundistoun deputatum eiusdem xxij^{o} die mensis octobris Anno domini m^{o} v$^{c/o}$ xxj^{o} etc 70*r*

Nomina sectatorum absencium

Sauling
blaksauling
bordland sauling
Rossitht
pytconnoquhy
crambetht
Reras
cassingray
ballinbreich
drumclouchop
owir ramkelour
wormat

dwry
clatty
taces
kynbrakmontht
kyncrag
kowbaky
luchoris wemys
luchoris ramsay
kylmarone berclay

amerciit

The quhilk day williame lauson [1] in dysert [1] in amerciament of court as he that wes lauchfully summond tharto be ane precept for to here & se certane witnes producit sworne and accusit in the action betuix him & williame nichol in dysert & comperit noucht for the quhilk non comperans he wes amerciit tharfor & dome tharupone gevine

amerciit

The quhilk day Johne walcar in dysert Janat mertyn thar Johne lauson & James Jak thar Ilkane of thaim in amerciamentis of court as thai that wer lauchfully summond tharto be ane precept as the Indorsing of the sammyn proportis for the quhilk non comperans dome wes gevine tharupone

protestacio

The quhilk day williame nicholl [2] protestit in Jugement sayand that because he had certane witnes tharto summond be Johne squyer officiar to hef comperit thane for to hef preuit ane spoilȝe be williame lauson maid of ane coppyre catill as in ane precept gevin tharupon mare fullely Is contenit nouchtwithtstanding the saidis preuis noucht comperand bot fraudfully absentit thaim tharfra as wes allegeit that tharfor he mycht hef his action in that mater proceidand at the nixt court & because It hes bene depending & continuit fra court to court as the continuacionis tharupon maid proportis to his hevye dampnage & skaytht And at the said nixt schiref court that quhethir his partii compere ore noucht that he mycht hef restorans agane of the said catil sa spoilȝeit according to Justice & lawis of the Realme to the quhilk the said schiref grantit & preceptis gif neid wer to be direct & gevine hereupone

[1] Added above the line.
[2] *lauson* deleted and *nicholl* added above the line.

productio testium inter smytht in condelane & Alerdes de skathowy cum fettas suo seruo/deposiciones eorum sequuntur

Williame tomson summond sworne & accusit deponit that he saw Johne allerdes of skathowy & Johne fettas his seruand spoilȝe & tak away fra williame smytht in condelane furtht of the feild quhar he wes tedderit ane blak hors of the said williamis syne brocht him to his hous & that Johne fettas raid away upone him the price of the hors viij merkis And the sammyn tyme thai hurt the said williame & his wyff wytht thar swerdis & drew blud of thaim & the said williame tomson swore that the said hors wes bettir that tyme thane viij merkis

Williame paige summond sworn & accusit deponit that he saw that said Johne allerdes & his seruand ryd away witht the said hors & hed thar swerdis drawin in thar handis & saw the saidis williame & his wyf baytht bleydand & the hors wes wortht viij merkis & bettir conformand him to the preif abone writine etc

Johne olypheyre summond sworn & accusit deponit conformand in all thingis to the previs abone exprimit

Allane olypheyre summond sworn & accusyt deponit conformand him siclyke in to all thingis eftir the deposicionis abone writine

The quhilk day in the actioun & cause mouit betuix williame smytht in condelane aganis Johne allerdes of skathowy & Johne fettas his seruand tueching the spoilȝeing of ane blak hors be the said Johne & his seruand fra the said williame And als for the hurting & blud drawing of the saidis williame & his wyf in the mene tyme be the foresaidis personis The saidis Johne allerdes & his seruand Johne fettas being lauchfully hereto summond be Johne squyer officiar for to here & se the production of witnes quhilkis wer summond to this court sworne & accusit for to hef preuit the said spoilȝe & blud drawing of the saidis williame & his spouse be the foresaidis Johne & Johne 70v

the foresaidis personis preuis being personaly in Jugement comperand for to preif the said blud and the hors sa spoilȝet ore the avale & price tharof quhilkis witnes being callit sworne & admittit neuirtheles the said schiref causit the said Johne squyer officiar for to pas to the tolbutht dure & call the said Johne allerdes & his seruand to compere as thai that wer lauchfully summond tharto & as the Indorsing of preceptis tharupone beiris/for to here & se the saidis preuis sworne til depone in the saidis actionis And gif thai plesyt to except aganis thaim gif thai ony lauchfull excepcione haid Nouchtwythtstanding the saidis personis noucht comperand nore nane uthir procuratore in the mene tyme for thaim Quharefor the said schiref ressauit the deposicionis of the saidis preuis in the saidis actionis & hes Inclosit the sammyn to the sycht of my lord schiref principale quharethrou he mycht gif his decreit tharintill according to Justice & eftir the deposicionis of the preuis passit tharupone/ Herefor the said schiref principall hes decreitit that the said williame smytht to hef the restorans of the said hors spoilȝeit extending to the soum of viij merkis usual money of scotland And ordans that preceptis to be giffin to the partii gif neid beis for to pund & distrenȝe for the sammyn because It wes lauchfully & sufficiently preuit as the sammyne beris And als the partii for to be assitht for the hurting & blud drawin of thaim be the said John allerdes & his seruand wythtin term of law And als that preceptis be directit to officiaris for to pund the said John & his seruandis thar gudis for ane wnlaw quhilkis thai wer convictit in in courtis of befor for non comperans as actis tharupon beiris

Curia vicecomitatus de fife tenta in pretorio burgi de cupro per Thomam grundiston deputatum eiusdem xix^{o} die mensis nouembris anno domini m^{o} v$^{c/o}$ xxj^{o} etc

The quhilk day williame lauson in dysert oft tymes callit & noucht comperit as he that lauchfully wes summond tharto be Johne squyer officiar & be ane precept

as the Indorsing of the sammyn proportis for to here & se certane witnes sworne as thai that wer summond tharto for to depone in ane actione of spoilȝe betuix him & williame nicholl for the quhilk non comperans he wes in amerciament of court & dome tharupone gevine

The quhilk day Johne lauson in dysert Johne walcar thar James Jak thar Agnes monipenny thar Ilkane of thaim in amerciamentis of court for non comperans as thai that wer lauchfully summond tharto for to [hef] deponit in ane actione of spoilȝe betuix williame lauson & williame nicholl [1] & dome tharon gevine [1]

Deposiciones testium Iudicialiter productorum per willelmum nichol contra & adversus willelmum lauson in actione spolie sequuntur

Johne wemys summond sworn & accusit deponit that williame lauson & Johne lauson witht utheris thar complicis wranguisly spoilȝeit ane coppir catill estymit to x libris fra williame nichol & his spouse It being in thar possession & wsse And als It being of befor deliuerit to thaim be the schireffis officiar the said williame lauson & Johne lauson com agane in feyre of weyre wytht wappynnis & spoilȝeit the said catill quhilk he repreuit thaim tharof in the mene tyme & as ȝit maisterfully haldis It fra thaim

Johne squyer officiar deponit be his aitht that he knew weile be oppin voce of nychtbouris in dysert that the saidis williame lauson & Johne lausone spoilȝeit the said catill wranguisly fra the said williame nicholl & hes the sammyn ȝit

Janat martyne deponit in presens of the said Johne squyer officiar because scho wes seyk & mycht noucht trawell hir self that williame lauson & Johne lauson spoilȝeit & wranguisly tuke away the said catill fra the said williame nichol & his wyf & set It in the said Janatis 71r

[1] Added later.

house eftir that thai tuke It & this the said Johne squycr swore in Jugement that the said Janat martyne deponit to him be hir gret aitht sworne in his presentis It wes of verite & befor diuers personis that tyme

The quhilk day in the action & cause of spoilȝe persewit be williame nicholl upone williame lausone of ane coppir catill estymit to x libris usuale money of scotland quhilkis that the said williame lauson tuke wranguisly & aganis the law fra the said williame nichol & his wyf as [in] preceptis tharupone maid & gevin togydder wytht actis of court of befor largely is contenit the said williame lausone being oft tymes callit & noucht comperit be diuers summondis and continuacionis maid tharupone nore nane utheris his procuratouris for him & in his name/that Is to say for to here & se certane deposicionis of preuis hereto summond sworne for to depone in the said actioun nore to except in contray thaim/the said schiref causit ane officiar for to pas to the tolbutht dur & proclame the sammyn & nane comperand/quharfor the said schiref ressauit the deposicionis of the saidis preuis & Inclusit the sammyn for to [be] presentit to my lord schiref principal And the said schiref principale eftir the said deposicionis decretit & gave deliuerance that the said williame lauson hed wranguisly & Iniustly spoilȝeit the said catill fra the said williame nichol & his wyf And decernit the sammyn for to be restorit & deliuerit agane to the said williame nichol wythtin the terme of law ore thane to pay the avale & price foresaid that is to say x libris because It wes sufficiently preuit that It wes wranguisly takin fra thaim It being in thar possessione as said Is And als quhar It wes of befor takine wranguisly fra the said williame & his wyf be the said williame lauson And thareftir restorit agane to thaim be the schireffis officiar/the said williame lausone dyd in lykwyse wrang tharintill And ordanis preceptis to be gevine to the partii for to pund the said williame lausonis gudis gif neyd beis for the sammyn & officiaris to pas witht him gif the said catill beis noucht restorit agane as said Is And the said williame lausone

for to [be] punyst herefor according to Justice & statutis of the Realme

James be the grace of god king of Scottis to our schiref of fife & his deputtis And to all utheris our officiaris & schireffis in that part constitut greting Foresamekle as It is humilie [*menit*] & schewin to ws be our louittis Dauid grundistone of kingask Johne bowr & waltere feyt/that quhar thai at command of our lettres hes fundin souerte to our Justice clerk in our adiornale to compere & wnderly our lawes for the slauchtir of wmquhill Andrew balcomy of the quhilk thai wer delatit/the partii hes neuirtheles senisterly purchest our utheris lettres to 3ou to tak new souerte of thaim to the law for the sammyn actione And sa to compell thaim to fynd double souerte quhilkis is noucht consonand to ressone for the quhilk cause the lordis of our consall in our name hes suspendit & dischargeit our saidis lettres now direct to 3ou for new souerte to be takine of the saidis personis because thai stand souerte in our adiornale as sad is Our will is herefor & we charge 3ou & Ilkane of 3ou that 3e decyst & cesse fra all using & execucione of our saidis utheris lettres anent the takine of the said souerte of the quhilk we discharge 3ou & Ilkane of 3ou of 3our offices in that part be thir our lettres Deliuering thaim be 3ou & Ilkane of 3ou sene & wnderstandin agane to the berare Gevine wnder our Signet at Edinburgh the xix day of december & of our Regne the nynt 3ere etc [19 Dec. 1521]

grundistone

Ex deliberacione dominorum consilii/ Chepmane

Upone the last[1] day of december In the 3ere of god J^m v^c/xxj 3eris I Thomas grundistone schiref deput passit wytht our Souerane lordis lettres & eftir the tenore of the sammyn tuke & ressauit souerteis of certane personis contenit in ane byil that is to say for art & part of the slauchtir of wmquhill Andro balcomy that is to say george ertht souerte for allane Jamesone dauid Jamesone souerte for James huchonsone Dauid andersone souerte for Johne

[1] *feird* deleted and *last* written above the line.

murray / And Andro seitone of perbrotht souerte for margaret couper Janat Jamesone & elene Jamesone eftir the forme & tenour of our said Souerane lordis lettres & wnder the panys contenit in the sammyn Witnes present Johne brone Johne bell george kayd williame dyk & thomas ferry notar witht otheris diuers

71v Curia Capitalis vicecomitatus de fife tenta in pretorio burgi de Cupro per Andream lundy de straitherly & Thomam grundistone deputatos eiusdem et eorum quemlibet coniunctim & diuisim septimo die mensis Januarii Anno domini m° v^c/o xxj° sectis vocatis Curia affirmata Absentes [patent]

Nomina absencium

s p sauling
p blaksauling
s p brodland saul-
ing
s p Rossitht
s p dron
s p pyttincreif
s p pytconnoquhy
s p cleich meldrum
s p cleich allerdes
s p forgy
s p kynnescot
s p crambetht
s p kynnescot
p kyrknes
s p louchquhore-
schire estir
p glasmontht
personaris s p west part
dysert
personaris s p est part dysert/
except george
ertht

p pittinweme
s p balcormo
s p creich
personaris s p cullessy
personaris s p crowy
s p luchoris
wemys
p colystoun
s p cammo
s p clatty
s p dalgaty
s p pynkertoun
personaris p s kylmaron ex-
cept Johne
seitone
s p pytdoneys
s p tyrye & sey-
feild
s p grange
s p casch
s condelane
p colsy mun-
creif

s p pyttincreif/spens
p dwry
p schethum
p balgony
personaris s p burnturk
s p quylt
s p ballindone
s p dounfeyld
p tacesse
s p balcurrowy
p Reras
p kelle
p admowty
p cassingray
s condelane
s p tulyboill bys-sat
s bawneill
s p balmontht
s p cragy
s p westir touch
s p west bernys
s p cayplowy
s p anstrothir
s p sauchquhop
s p luklaw
personaris s p glendouky
s p Dunboug
p cammerone

The quhilk day in the actione & cause betuix the lard of Raitht & Thomas balfour Is wytht consent of partiis continewit in al effect & forme as It now is but preiudice of ony ane of the said partes to the xv day of februar that nixt cumis & the partes summond tharto in Jugement Apud acta etc

The quhilk day [1] maister Alexander seitone [1] prelocutor for margaret seiton sayand that as to the kingis lettres producit be Alexander narne of sandfurd in the name of the lard of culluthy askand the said schireffis noucht to proceid because thai wer suspectit Jugis as the said Alexander allegeit quharfor the said maister Alexander askit the said schireffis for to proceid in the said actione because thar wes na suspicione put to thaim quhy thai sould noucht proceid lauchfully & gif thai wald noucht protestit for remeid of law tyme & place convenient

The quhilk day the said maister Alexander producit in Jugement the kingis lettres direct to the schiref of fif & his deputtis togydder witht ane precept tharupone conformand & askit the said schiref deputtis for to proceid in the actione eftir the tenore of the sammyn

[1] Repeated in the text.

The quhilk day the foresaid schireffis hes of his office continewit the actioun & cause betuix margaret seitone lady of Rossy & maister Alexander seitone hir brothir on ane part & the lard of culluthy one that uthir part wytht assent & consent of Alexander narne of sandfurd & henry sibbald procuratouris for the said lard & of baytht parteis consent in al effect & forme as It now Is but preiudice of partii to the xxiij day of Januar Instant viz̃ to ansuere in al punctis contenit in the precept of the said margaretis tharupone direct & upone the punctis contenit in our said souerane lordis lettres & the saidis parteis & procuratouris summond In Jugement tharto Apud acta

72r

Nomina assise & Inquisicionis

Alexander gourlay of kincrag
Johne lummisden of Ardre
Dauid tullo of hylcarny
Alexander sibbald of Ramkelour
Alexander louchmalony of that Ilk
Alexander narne of sandfurd
Dauid grundistone of glasly
Maister Johne spens of maretoune
George ertht of smetoune
Johne strang of balcasky
Johne seitoune of lauthresk
James gardine of newtone
Dauid pitblatho of that Ilk
Dauid balfour of ewinstoune
Alexander schethum of skelpy

terce laithame

The quhilk day Agnes scheves the Relict of wmquhill Dauid sibbald of laithame producit In Jugement ane breif of terce of our Souerane lord the kingis chapel quhilk breif wes lauchfully & orderely proclamyt as the Indorsing of the sammyn proportis And na Impediment to the said Agnes maid tharintill be the quhilk breif scho askit for to be seruit of hir resonable terce of al & sindry the landis annuell rentis witht thar pertinentis quhilkis the said wmquhil dauid hyre spouse deyt last vestitut & saisit as of fe & In speciale of al & sindry the landis of the manys of lathame wytht the pertinentis & mylne of the sammyn & of his landis of cuykstone wytht thar pertinentis and of the ferd part of the landis of glasly witht thar pertinentis lyand withtin the schirefdome of fife of the quhilkis landis

al & sindry wytht the mylne & pertinentis of the sammyn/ the foresaid Inqueist seruit the said Agnes for to hef hir resonable terce tharof/for the quhilkis cavillis wes cassin in Jugement And the said Agnes hes befalline the schaddo cavill of al & sindry the foresaidis landis & pertinentis And to hef hir terce of the multouris & profittis of the myll of laithame efferand tharto And the said schireffis hes decernit hir for to be bekennit tharto as ws [is] & preceptis to be direct gif neid beis tharupone according to Justice

terce lathalland

The quhilk day the lady of lathalland wes be the said Inquest seruit be ane breif of terce be hir Impetrat for to hef hir ressonable terce of al & sindry the landis annuel rentis & pertinentis quhilkis that wmquhil Johne spens of lathalland hir spouse deit last vestitut & saisit as of fe that is to say of the landis of lathalland wytht thar pertinentis lyand withtin the schirefdome of fife togydder wytht hir coniunctfe of the sammyn as ane confirmacione of our said Souerane lord wnder his gret Seile tharupone in Jugement proportis/Of the quhilkis the said lady Is befallin the sone cavill of the sammyn drawine in Jugement in presentis of the said schiref upone the quhilkis the said schiref decernit the said lady for to be kennyt tharto as wsse & consuetud Is in the Realme & preceptis to be direct to officiaris gif neid beis according to Justice

Qui Jurati dicunt quod quondam Andreas wemys de carny pater Alexandri wemys latoris presencium obiit ultimo vestitus & saisitus ut de feodo ad pacem & fidem Supremi domini nostri Regis de uniuersis & singulis terris de myrecarny cum molendino eiusdem & pertinenciis & de totis & Integris terris de logye murtho cum pertinenciis et de terris de westircrowy & bryghouse cum earundem pertinenciis Jacentibus infra vicecomitatum de fife Et quod dictus Alexander presencium lator est legitimus & propinquior heres eiusdem quondam Andree patris sui de omnibus & singulis terris supradictis cum molendino & earundem pertinenciis/et quod est legitime etatis Et quod omnes & singule terre prenotate & pertinencie valent nunc per annum centum marcis usualis monete regni

scocie et tempore pacis valuerunt xij libris eiusdem monete Et quod tenentur in capite de dicto domino nostro Rege per seruicium warde & releuii et quod existunt in manibus serenitatis ipsius racione warde per decessum dicti quondam Andree patris sui [1] ob [1] non etatem legitimi heredis Jus suum hactenus minime prosequi volentis ad spacium xv annorum ultimo elapsorum aut eocirca In quorum fidem etc

The quhilk day in the actioun & cause movet be margaret seitone the Relict of wmquhil Johne bonar of rossy on ane part And Dauid ramsay of culluthy on ane uthir part/as be ane precept tharupone direct mare fullely Is contenit the said margaret being personaly present wytht maister Alexander seitone channone of [balheluy] [2] hir prelocutor And the said Dauid comperand be Alexander narne of sandfurd & henry sibbald his procuratouris the said action being callit Neuirtheles the said schirefis deputis hes wytht consent of partii & procuratouris And als for debilite of court continewit the foresaid actionis to the xxiij day of Januar Instant & the saidis parteis & procuratouris summond in Jugement tharto apud acta

72*v* Curia vicecomitatus de fife Tenta In pretorio burgi de cupro per Thomam grundistone & Johannem ferny deputatos eiusdem xxiij° die mensis Januarii Anno domini m° v^c/o xxj° sectis vocatis

The quhilk day henry sibbald comperit in Jugement as he that wes procuratore for the lard of culluthy in the action betuix the lady of Rossy on ane part & the said lard on that uthir part [and] protestit that he mycht hef lauchfull excepcionis to say in contrare the schiref officiaris & uthir membris of court And quhateuir wer done in contrare the said lard in the said court protestit for remeid of law

The quhilk day maister Alexander seitone prelocutor

[1] Added above the line.

[2] Blank in manuscript.

for the lady Rossy askit dauid hay in ardet bailȝe to the lard of culluthy as he that wes summond tharto/for to produce the Rolment of court be him haldin as our souerane lordis lettres beiris And because the said dauid hay was present in Jugement the said maister Alexander commandit the schiref forsaid that he wald command the said dauid tharto eftir the tenour of our said souerane lordis lettres tharupone direct/the quhilk the said dauid refusit upone the quhilk the said maister Alexander askit to be actkit & the schiref to proceid in the said mater/And attour the said maister Alexander producit in Jugement ane Instrument of seising of quhilkis scho wes in possessione of the landis callit muncurris landis togydder wytht utheris ressonis quharthrou the said schiref aucht to proceid as said Is

The quhilk day george traile comperit in Jugement askand the schiref that he wald excuse master James kynnynmontht as he that wes summond tharto at the Instance of dame katrine hakheid lady of craghall & Johne foulartoun as preceptis tharupone beris/the said george havand na maner of sufficient power nore procuratorii hereto/quharfor the said lady & hyre forespeiker Thomas hakheid proponit sayand that the said george sould noucht be herd herein till because thar wes na procuratorii schawin & askit the said schiref to proceid in the said mater

The quhilk day comperit in Jugement margaret seiton lady of Rossy & maister Alexander seiton hir brothir vicar of balheluy hyre forespeiker & producit our Souerane lordis lettres direct to the schiref of fife & his deputtis chargeing thaim to tak cougnicione gif the said lady wes in possessione of the landis callit muncurris landis lyand wythtin luchoris schyre / quhilkis landis scho wes put fra the occupeing of the sammyn be the lard of culluthy as the saidis lettres proportis & be the partii allegeit/The foresaidis lettres being oppinly red herd sene considerit & wnderstanding/the foresaid schiref askit the said lady & hyre forespeiker for to produce & schaw be quhat way & vertu thai wauld usse thar possessioun of the saidis

muncurris landis/quharethrou thai mycht wsse & bruke thar possession tharof as said Is And thane incontinent the said maister Alexander producit in Jugement ane attentyk Instrument of the said ladys possessione of coniunctfe of the foresaidis landis togydder witht utheris euidentis tharupone maid & concerning the sammyn/ quhilkis scho peceabilly broikit & lauborit the foresaidis landis of lang tyme of befor thane thir foresaidis euidentis being producit & schawine It wes considerit & clerely wnderstandine be the said schiref & assessouris of the haile court that It mycht suffice for the cougnicioune taking in the said mater & concerning the landis contenit in our said Souerane lordis lettres callit muncurris landis And thane the said schiref decernit & decretit that the said lady of Rossy sall hef full & hail Ingres & Interesse In & to hir saidis muncurris landis and peceabilly to Joise & bruke the sammyn & lauborit be hyre & hir tennentis & seruandis/eftir the forme & tenour of our said Souerane lordis lettres direct tharupone in all punctis And als decernis preceptis to the partii for to be direct to officiaris for to pas wytht the said lady ore hir factouris & entir hyre agane to hir possessione of the sammyn & to remane peceble tharin till euir & quhill scho be lauchfully callit & ordorely put tharfra according to Justice & to our said souerane lordis lettres tharupone direct/Upone the quhilk decreit the said maister Alexander prelocutor for the said lady his syster askit this deliuerance & decreit to be deliuerit to thaim wnder his seile of office & preceptis tharupone as said Is the quhilk wes in Jugement grantit

The quhilk day In the actioun & cause mouet be katrine hakheid lady of craghall on ane part & maister James kynnynmontht on that uthir part tueching the spoilȝeing
73r and|eiectioun of hyre and hir gudis furtht of hir terce landis of craghall And of the thrid of the saidis landis of craghall quhilk scho hes in assedacioun of williame kircaldy heretar of the sammyn be the said maister James/The said katrine comperand personaly in Jugement & produceand our Souerane lordis lettres direct to the schiref

of fife & his deputtis for to knaw upon the said spoilȝe And of the eiectioun of the said katrine furtht of the saidis landis housis & gudis being of hiris tharupone as in ane precept tharupone maid mare fullely Is contenit The foresaid maister James being lauchfully summond hereto at the Instance of the said katrine And to ansuere upone the punctis contenit in the said precept And noucht comperand nore nane uthir lauchfull procuratour in his name/the said schiref deput thareftir causit ane mare to pas to the tolbutht dure & callit the said maister James/ quhilk wes ofttymes callit & comperit noucht quharfor the said maister James wes in amerciament of court Neuirtheles the said schiref deput ressauit the deposicionis of certane personis witnes quhilk wes summond be the said katrine to preif the said spoilȝe & the eiectioun of hir & hyre gudis furtht of hir saidis landis of craghall as said Is the quhilkis personis of witnes sworn and accusit deponit tharin till Eftir the quhilkis deposicionis takin the said schiref deput decernit & decreitit that the said katrine wes wranguisly Iniustly & wnordorely spoilȝeit & eieckit furtht of hir saidis landis of craghall & housis of the sammyn wytht the skaytht of the pastoring of hir cattell & in the hendering of hyre tyltht And of hir haye of hir medow wytht utheris wrangis be the said maister James as our said Souerane lordis lettres proportis And decernis the said katrine for to be restorit agane to hyre saidis landis housis & grond of craghall in siclyk wyse as scho wes in to of befor peceabilly to Joise & bruke the sammyn be hyre & hir seruandis & tennentis And als to be assitht of hir skaytht as Is abone writin according to Justice Upone the quhilk decreit the foresaid katrine askit the schireffis testimoniale wnder his seile In Jugement quhilk wes grantit

The quhilk day in the actioun & cause mouet be Johne foulartoun upone maister James kynnynmont for the wranguis spoilȝeing avay taking & withthalding fra him of twa kye furtht of the landis & grond of banderane as in ane precept tharupone maid mare fullely Is contenit/

the said maister James lauchfully summond hereto for to ansuere at the Instance of the said Johne upone the said spoilȝe as the Indorsing tharof proportis/the said maister James oft tymes callit & noucht comperand nore nane uthir lauchfull procuratour in his name quharfor the said maister James wes in amerciament of court for non comperans Nouchtwythtstanding the said Johne causit certane personis witnes to be summond be ane precept for to preif the said spoilȝe & punctis contenit in the sammyn/ the quhilkis personis witnes comperit sworne accusit & be thar grete aitht deponit in the said actione/Eftir the quhilkis deposicionis takine The foresaid schiref deput decernit & decretit that the said maister James wranguisly and wnordorelie spoilȝeit hed the said twa kye fra the said Johne furtht of the grond of banderane be him & his seruandis And decernit the sammyn to be restorit agane to the foresaid Johne & grond thai wer takine furtht of ore the avale & price of the said kye as in the said precept Is contenit & this decreit pronuncit in Jugement upone the quhilk the said Johne askit the schireffis testimoniale wnder his seile of office to be affixit to the sammyn according to Justice quhilk wes grantit etc

Curia vicecomitatus de fife Tenta In pretorio burgi de Cupro per Thomam grundistone deputatum eiusdem xv^{o} die mensis februarii anno domini m^{o} v$^{c/o}$ xxj^{o} etc

The quhilk day comperit in Jugement Johne kello as he that wes summond tharto be Johne harlo mare to ansuere at the Instance of Johne wallace/And because thar com na persone to persew nore follow the said Johne kello he protestit he sould noucht ansuere to the said Johne wallace summondis on to the tyme of his expensis

The quhilk day comperit in Jugement James layng as he that wes summond tharto be ane precept of the schireffis to ansuere at the Instance of Alexander kyncaid for the soume of v ℔ quhilk the said James denyit the said sowme allegeit he wes noucht awand the sammyn

The quhilk day dauid gregour forespeikar for the said James layng producit ane act of the officialis of Sanctandrois allegeand that the said actione wes depending befor him in his consistorie And als producit ane lettre of reaggrauacione upone the said Alexander protestand that the schiref sould noucht proceid in the said mater for the causes foresaid

James be the grace of god king of Scottis To our schiref of fife & his deputis And to all utheris our officiaris in that part that beis requirit upone the execucione of our utheris lettres passit upone the slauchtir of wmquhill Alexander elestoun greting/foresamekle as It Is humilie menyt & schewin to ws be our pure liegis henry orknay Robert allane James dawrympll Dauid kynneire margaret tailȝeour williame murray & [ ][1] the spouse of Andro greig pure quottaris & lauboraris of the grond withtin our schirefdome of fife/That quhaire the said wmquhill Alexander elestone happynit to be slane be Dauid sibbald ȝoungar & Johne payge in hervist last bypassit on the feyldis & upone the landis of pitȝeouchir for the quhilk slauchtir thai ar denunceit our Rebellis & put to our horne as fugitiue fra our lawes And hes tane tharthrou the said slauchtir one thaim Neuirtheles the saidis personis ar dilatit for art & part of the sammyn thai being Innocent tharof/that wes for the tyme scherand & wynand thar maisteris cornis on the feild quhen the said slauchtir wes committit/& hed noucht ado thar witht howbeit thai ar chargeit be ȝou our said schiref of fife & ȝour deputtis be our saidis utheris lettres to fynd souerte to ȝou to wnderly our lawes for the samyn wythtin vj dais eftir ȝour charge & wnder the pane of Rebellione the said vj dais being past & the said souerteis noucht fundin be thaim to put thaim to our horne/thai being pure bodys & hes na takkis nore steidingis of thar awine bot seruandis & lauboraris of the grond to utheris personis na thai can get na souerteis for thame wnder the pane of xl libris because thai hef

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anentis the slauchtir of eleston

[1] Blank in manuscript.

na gudis to Releve thar souerteis And sa tharthrou thai ar abill to be processit to our horne to thar hewy dampnage & skaytht & aganis Justice gif sabe Our will is herefor and we charge 3ou straitly & commandis/that 3e tak Ilkane of the saidis personis souerte for utheris wnder the panys contenit in our saidis utheris lettres to wnderly our lawes for the said slauchtir the thrid day of our nixt Justice aire of fife/ore upone xv dais warning because It Is wnderstandin that thai ar pure lauboraris & can get na landit men to be souerte for thaim And als ar dilatit of malice as Is allegeit And this 3e do as 3e & Ilkane of 3ou will ansuere to ws tharupone & wnder all pane & charge that eftir may follow Deliuering thir our lettres be 3ou deuly execut & Indorsat agane to the berare/gevin wnder our Signet At Edinburgh the xxj day of februar and of our Regnne the nynt 3ere etc

[21 Feb. 1522]

Ex deliberacione dominorum consilii/ bannatyn

anentis the lady of abircrummy souerteis

Upone the ferd day of Januar In the 3ere of god J^m v^c/ xxj 3ere I Thomas grundiston schiref deput of fife ressauit certane personis souerteis for the Revesing of the lady of abircrummy to wnderly the law & lauborris as the tenore of our Souerane lordis lettres direct tharupone proportis/In the fyrst Johne mailviln of Raitht souerte for george erle of Roithes/Robert wynton/Johne reyd/ williame lesly Dauid monipenny of petmuly/Johne foresitht of nydye/walter elestone george balfour patrik reyd seruand to the lard [of] petmuly/the lard of Innerdovate/ the lard of nydye souerte for his seruand Robert bykkertoun//thir ar the personis that the lard of wylmerston Is souerte for Johne anstrothir of that Ilk/Dauid anstrothir/ williame anstrothir/maister Johne balfour/Alexander touch Andro forstar / Andro balfour / Andro murray / & Andro wyntoun//thir ar the personis the lard of Anstrothir is souerte for/Dauid spens of wilmerstone/Dauid spens his sone & aperand aire/Dauid stewert brothir to the lard Rossitht/frances ramsay of foxton/Johne henry/williame bowsy & schir henry balfour duelland witht the said lard of anstrothir/

Thir ar the personis that wer fugitiue & fand na souerteis// quhilkis personis wer put to our Souerane lordis horn & denuncit his Rebellis/that is to say Thomas lesly/Dauid lesly/walter lesly & Johne lesly/Andro fobdy/Dauid makfarsane/Thomas myllar in anstrothir/this execucion I maid befor thir witnes schir dauid cristeson chaplane/eduard norys Johne anstrothir of that Ilk James huchonsone schir Andro louchmalony schir Johne lawta chaplanis & Thomas ferry notar witht otheris diuers

Upon the xxviij day of Januar in the 3ere of god Jm vc/ xxj 3ere I Thomas grundistone schiref deput of fife at the command of our Souerane lordis lettres direct tharupone passit to the mercat croce of the burgh of couper & maid execucione of the samyn/that is to say quhar Dauid sibbald 3oungar & Johne paige wes be the saidis lettres commandit & chargeit of befor to hef cumin & fundin souerteis to wnderly the lawes for the slauchtir of Alexander eleston as the saidis lettres proportis the quhilkis personis wes fugitiue tharfra quharfor thai wer denuncit our said Souerane lordis Rebellis & put to his horne//Nouchtwithtstanding as for certane utheris personis gevin in [ane] byll & dilatit for the said slauchtir quhilkis personis thar names eftir followis fand souerteis to wnderly the lawes for the said slauchtir eftir the tenour of our said Souerane| 74*r*
lordis lettres direct to the schiref of fife & his deputis tharupone/And as for Dauid sibbald eldar he hes fundin souefte for him self to our Souerane lordis Justice clerk as be his writine producit tharupone beiris/the lard [of] balgony souerte for Andro greg/Andro greg souerte for his spouse/James dawrympill & Dauid kynnere Ilkane souerte for utheris/henry orknay & Robert allane Ilkane of thaim souerte for utheris/Johne tail3eour alias williamsone souerte for elene tail3eour his douchtir/& williame murray for him self/the quhilkis personis souerteis I the said Thomas schiref deput ressauit the samyn eftir the tenour of our said Souerane lordis lettres befor thir witnes Dauid kay henry sibbald James rawat eduard moris Johne bell & thomas ferry notar etc

Curia vicecomitatus de fife Tenta in pretorio burgi de Cupro per Thomam grundistone deputatum eiusdem x° die mensis marcii Anno domini m° v^c/o xxj° Sectis vocatis Curia affirmata etc

Nomina assise & Inquisicionis

Johne clapam of kerslogy	Dauid tullo of hylcarny
Johne forstar of newtoun	Johne muncur of montht
Johne haye of fudye	frances ramsay of foxtoune
Alexander narne of pursk	Williame baxster of quylt
Alexander louchmalony of that Ilk	Johne drummond of flass
Dauid grundiston of glasly	Alexander skougale in crowy
	Dauid greigour 3oungar

The quhilk day michel anderson forespeiker for Janat drummond lady of kynnere allegeit that the breif of terce of the said ladys wes conformant to ane breif of Inqueist quharefor scho aucht to be seruit tharof eftir the consuetud of [the] Realme

The quhilk day Dauid gregour prelocutore for dauid kynnere of that Ilk presentit as he allegeit the lawes contra the breif of terce & that the processe tharof sould cesse anentis the execucione tharof

The quhilk day Robert aitone [1] comperit in Jugement protestand that quhateuir the assise dyd in the execucione ore seruing of ane breif [of] Inqueist purchest be dauid grundiston of glasly of the landis of Rouchleys/that It sould noucht hurt him in the ward & Releif pertening to him of the sammyn & being in his handis Nouchtwythtstanding the dispensacione of the lard [of] bathyok in his possessione of the barony of quylt & gif the said assise dyd in contrare protestit tharintill for remeid of law etc

Qui Jurati dicunt quod quondam walterus grundiston de glasly pater Dauid grundiston latoris presencium obiit ultimo vestitus & saisitus ut de feodo ad pacem & fidem supremi domini nostri Regis de totis & integris terris de

[1] *procuratour* deleted here.

Rouchleis cum pertinenciis Jacentibus in baronia sive dominio de quyltis & Infra vicecomitatum de fife Et quod dictus Dauid presencium lator est legitimus & propinquior heres eiusdem quondam walteri patris sui de predictis terris de rouchleis cum pertinenciis et quod est legitime etatis Et quod prefate terre cum pertinenciis valent nunc per annum xij marcis monete scocie & tempore pacis [valuerunt] xx ℔ eiusdem monete & quod tenentur in capite de domino balthyok per seruicium albe firme Reddendo inde annuatim unum denarium monete predicte super fundum dictarum terrarum de rouchleis ad festum penthecostes nomine albe firme si petatur tantum Et quod nunc existunt in manibus domini balthyok domini superioris earundem per decessum dicti quondam Walteri patris dicti Dauid ob defectum legitimi heredis Jus suum hucusque minime prosequentis ad spacium xvj annorum elapsorum aut eocirca In quorum fidem etc

Qui Jurati dicunt quod quondam Walterus strang de pitcorthy pater Agnetis strang latricis presencium obiit ultimo vestitus & saisitus ut de feodo ad pacem & fidem Supremi domini nostri Regis de tota & Integra una media parte bine partis octo parcium omnium & singularum terrarum de Ardre cum suis pertinenciis Jacentium infra vicecomitatum de fife Et de uno annuo redditu quatuor solidorum & quinque denariorum annuatim percipiendo & leuando de totis & integris terris de pitcorthy estir cum pertinenciis Jacentibus infra dictum vicecomitatum Et quod dicta Agnes presencium latrix est una de legitimis & propinquioribus heredibus dicti quondam Walteri patris sui de dicta dimedietate bine partis octo parcium terrarum de Ardre cum earundem pertinenciis et eciam de dicto annuo redditu/et quod est legitime etatis et quod dicta medietas bine partis octo parcium terrarum de Ardre cum pertinenciis valet nunc per annum septem decem solidis et nouem denariis cum ob̃ usualis monete Regni scocie & tempore pacis [valuit] tribus ℔ & quod tenetur in capite de dicto Supremo domino Rege per seruicium Warde & Releuii Et quod dictus annuus redditus quatuor solidorum

& quinque denariorum tenetur in capite de domino de kelle similiter per seruicium Warde & Releuii & quod tantum valet nunc per annum quantum valuit tempore pacis Et quod dicta medietas bine partis octo parcium terrarum de ardre cum pertinenciis & eciam dictus annuus redditus quatuor solidorum & quinque denariorum ut supra existunt nunc in manibus dictorum dominorum superiorum racione Warde per decessum dicti quondam Walteri patris sui ob non etatem veri heredis Jus suum hactenus minime prosequentis ad spacium nouem annorum ultimo elapsorum aut eocirca In quorum fidem etc

Qui Jurati dicunt quod quondam walterus strang de pitcorthy pater egedie strang latricis presencium obiit
74v |ultimo vestitus et saisitus ut de feodo ad pacem et fidem Supremi domini nostri Regis de una media parte bine partis octo parcium omnium & singularum terrarum de Ardre cum suis pertinenciis Jacentium infra vicecomitatum de fife Aceciam de uno annuo redditu quatuor solidorum & quatuor [1] denariorum annuatim percipiendo & leuando de totis & integris terris de pitcorthy estir cum suis pertinenciis Jacentibus infra dictum vicecomitatum Et quod dicta egedea presencium latrix est una de legitimis & propinquioribus heredibus eiusdem quondam walteri patris sui de dicta medictate bine partis octo parcium terrarum de Ardre cum pertinenciis & de dicto annuo redditu & quod est legitime etatis & quod dicta medietas bine partis octo parcium terrarum de Ardre cum pertinenciis valet nunc per annum septem decem solidis nouem denariis cum oƀ usualis monete Regni scocie/& tempore pacis valuit tribus s̃ eiusdem monete/et quod tenetur in capite de dicto supremo domino nostro Rege per seruicium Warde & Releuii Et quod dictus annuus redditus quatuor solidorum & quinque denariorum tenetur in capite de domino de kelle similiter per seruicium warde & releuii [et] quod tantum valet nunc per annum quantum valuit tempore pacis/et quod dicta medietas bine partis octo parcium terrarum de Ardre cum pertinenciis Aceciam dictus annuus redditus

[1] So the manuscript. Read *quinque*.

quatuor s̃ & quinque d̃ existunt nunc in manibus dictorum dominorum superiorum racione warde ut supra per decessum dicti quondam walteri patris sui ob non etatem veri heredis Jus suum hactenus minime prosequentis per spacium nouem annorum elapsorum aut eocirca In quorum fidem

James be the grace of god king of Scottis To our schiref of fife & his deputis And to our louittis Johne Adamsone James byssat messingeris our schireffis in that part coniunctlie & seueralie specialie constitut greting Foresamekle as It is be the lordis of our consale decreitit & deliuerit that dauid monipenny of pitmulye sone & aire of wmquhill williame monipenny of pitmulye sall content & pay to walter lundy of pratris sone & aire of wmquhill Thomas lundy of pratris knicht the soume of ane thousand & twa hundretht merkis usuale money of our Realme for the single & double avale of his mariage as he the said walter that hes the gyft of the sammyn of ws because the said [1] walter offerit to the said dauid eufame lundy his sister in mariage as ane aggreable persone to him & partii withtout disparising/quhilk he refusit to do And maryit wythtout the said walteris lecens as ane actentik Instrument of requisicione maid tharupone wnder the signe & subscripcione manuale of maister thomas wemys notar publict schewin & producit befor the saidis lordis proportit & bure of the dait At Sanctandrois the xxvj day of februar In the ȝere of god J^{m} v^{c} & xix ȝeris As at mare lyntht Is contenit in ane act & decreit gevin be the saidis lordis tharupone Our will is herefor and we charge ȝou straitly & commandis that incontinent thire our lettres sene ȝhe pas compell & distrenȝhe the said Dauid monipenny his landis & mak penney of his reddiest gudis And failȝeing of his movable gudis that ȝhe apprisse his landis eftir the forme of our act of parliament to the avale of the said soume And mak the said walter to be fullely contentit & pait tharof but delay & eftir the forme of the said decreit as ȝhe will ansuere to ws tharupone The quhilk to do we lundy prateris

[1] *Dauid* deleted here.

committ to 30u coniunctlie and seueralie our full power be thir our lettres Deliuering thaim be 30w deulie execute & Indorsate agane to the berare gevin wnder our Signet
[8 April 1522] At Edinburgh the aucht day of Aprile And of our Regnne the nynt 3eire etc

Ex deliberacione dominorum consilii etc Chepman

Curia Capitalis vicecomitatus de fife Tenta In pretorio burgi de Cupro per Thomam grundiston et willelmum meldrum deputatos eiusdem penultimo die mensis Aprilis Anno domini m° v^c/o xxij° Quo die sectis vocatis curia affirmata Absentes patent

Nomina assise & Inquisicionis

Petir creichtoun of nauchtane knicht
Thomas forster of strahenry
Johne hay of fudye
Alexander sibbald of ramkelour
Johne drummond of flashyll
Dauid balfour of ewinstoune
Dauid tullo of hylcarny
Johne lassellis of Innerdovate
Alexander narne of sandfurd
Thomas haye of sandfurd
Johne ramkelour of that Ilk
[*Williame*] [1] bruce of erlishall
[*Williame*] [1] ramsay of brekmont
maister Johne spens of marstoun
Alexander schethum of skelpye

75r Nomina absencium

p s sauling
p s blaksauling
p s brodland sauling
p s Rossitht
p s pittincreif wemys
p s pitconnoquhy
p s cleich allerdes
p s forgy
p s crowy
p s cullessy
p s Rynd
p luchoris wemys
p s luchoris ramsay
p colyston
p cammo
p s pynkertoun

[1] Blank in manuscript.

p kynnescot
p kyrknes
p crambetht
p s louchoreschir estir
p s louchoreschir westir
p s cowdrane & maw
p wemys westir
p s est part dysert
p s west part disert personaris except george ertht
p dwry
p balgony
p burnturk
p s quyltis
p s taces
p s balcrowy
p s reras
p Ardre
p s admowty
p s girsmarstoun & kyrklandis
p kynmux
p s creich
p drumclouchop
p s pitdoneis personaris except balcasky
p s pittedy
p s grange
p s colsy muncreif
p s condelane
p s tuliboill byssat
p s balgonwar
p s bawneill
p s pittincreif spens
p s westir touch
p s estir touch & bogy
p s west bernys
p s Anstrothir
p s cayplowy
p s cullerny
p s casche
p s bawhowfy & gordonishall
p s sauchquhop
p s straithore westir
p s cammerone
p s dunboug
p s burntoun

protestacio

The quhilk day schir williame drummond protestit in Jugement that quhat euir wes done as thane concerning the Interesse of Alexander spens the sone & aire of wmquhill Johne spens of lathalland in his heretage/that It sould noucht hurt the lady lathalland his modir in hyre coniunctfe of the sammyn & speciale in hir landis of lathalland & gif thai dyd protestit for remeid of law etc

contract

The quhilk day It is contrackit betuix Andro wod of largo on apart and Alexander spens aperand aire of lathalland on that uthir part In this maner that is to say the said Alexander sal contract in mariage wytht ane sufficient persone quhilk salbe at the will of the said Andro And this to be completit betuix the day of this write & the terme of martymes nixt hereeftir sa that the

said Alexander be aire to the [landis of] lathalland & heretage tharof upone the quhilk schir williame drummond dene of dunblanen Is oblist to the said Andro this to be fulfillit be the said Alexander And failȝeing that the said Alexander will noucht bot fraudfully absent him tharfra & wilfully and compleit mariage witht utheris personis that in that cace the said schir williame to content & pay to the foresaid Andro the said Alexander being ayre to the landis & heretage of lathalland the sowme of vij^{c} merkis usuale money of scotland And failȝeing that the said Alexander brukis noucht the foresaidis landis & heretage the saidis parteis Ilkane dischargis utheris And hereupone the said Alexander hes oblist him to Releve the said schir williame of the said soume & band in the sikkerest forme of obligacione that can be devisit as he that is becumin caucionar for the said Alexander to the said Andro And quhat uthir persone havand the ward of the saidis landis that thai sall hald ferme & stable And gif sa beis that the said Alexander beis noucht requirit for the completing of the said band and contract be the said Andro ore utheris in his name ore procuratouris for the said persone betuix the day of this write & the terme of martymes nixt hereeftir that the said schir williame for to be fred of the said band of mariage & soumes abone exprimyt/And that It turne noucht the said Andro nore Robert wod ore thar procuratouris of the said mariage anentis the premissis to be compleitit hereeftir in ony tyme tocum

terce of kynneire

The quhilk day Janat drummond lady of kynneire wes be the said Inquest seruit of ane ressonable terce of all & sindry the landis of the manys of kynnere & pertinence tharof wytht the myll mowtouris & profittis of the sammyn And of hyre terce of all & sindry the landis of owyre caithlok pertening to the said wmquhill dauid kynneire hir spouse & pertinence tharof And of hyre terce of al & sindry the landis of nethir caithlok & pertinence tharof witht the myll of the sammyn|And als of ane terce of all & sindry the landis of kyttady & cragsunquhar pertening to wmquhill the said dauid hir spouse & pertinence of

75*v*

the sammyn lyand wythtin the schirefdome [of fife] of the quhilkis he deit last vestitut & seisit as of fee at the faytht & pece of our Souerane lord the king/of the quhilkis the said Janat Is befalline be cavillis cassine In Jugement hereupone & drawine the sone cawill hereof upone the quhilk the schiref hes decernit that officiaris to pas wytht the said Janat ore hir procuratouris to all & sindry the foresaidis landis & entir & bekene hir tharto wytht toftis croftis & pertinentis tharof as wsse & consuetud Is in the Realme & gif neid beis preceptis to be direct hereupone

Wod largo

Qui Jurati dicunt quod quondam Andreas wod de largo miles pater Andree Wod latoris presencium obiit ultimo vestitus & saisitus ut de feodo ad pacem & fidem supremi domini nostri Regis de uniuersis & singulis terris de northirfawfeild & froistleys cum earundem pertinenciis Jacentibus in baronia de Reras & Infra vicecomitatum de fife et quod dictus Andreas presencium lator est legitimus & propinquior heres eiusdem quondam Andree militis patris sui de predictis terris cum pertinenciis et quod est legitime etatis Et quod dicte terre de northirfaufeildis & froistleys cum earundem pertinenciis valent nunc per annum xx^{ti} marcis usualis monete Regni scocie et quod tempore pacis valuerunt decem marcis eiusdem monete Et quod tenentur in capite de dicto supremo domino nostro Rege per seruicium albe firme Reddendo Inde annuatim regressum in peregrinacionem ad Insulam de maii annuatim cum domino Rege si petatur tantum Et quod nunc existunt in manibus sue serenitatis Juste per seipsum racione renunciacionis infeodacionis sue matris ob defectum legitimi heredis Jus suum hucusque minime prosequentis ad spacium quatuor dierum ultimo elapsorum aut eocirca In quorum fidem

spens lathalland

Qui Jurati dicunt quod quondam Johannes spens de lathalland pater Alexandri spens latoris presencium obiit ultimo vestitus et saisitus ut de feodo ad pacem & fidem Supremi domini nostri Regis de tribus quarteriis partibus omnium & singularum terrarum de lathalland cum suis

pertinenciis Jacentium infra vicecomitatum de fife Et de tota & Integra dimedia parte omnium & singularum terrarum de kyttady & cragsunquhar cum suis pertinenciis Jacentium infra dictum vicecomitatum Et quod dictus Alexander presencium lator est legitimus & propinquior heres eiusdem quondam Johannis patris sui de uniuersis & singulis terris prenotatis cum earundem pertinenciis & quod est legitime etatis Et quod dicte tres quarterie partes terrarum de lathalland cum pertinenciis valent nunc per annum xvj ℔ usualis monete Regni scocie et tempore pacis [valuerunt] quatuor ℔ eiusdem monete/Et quod dicta dimedia pars terrarum de kyttady & cragsunquhar cum pertinenciis valet nunc per annum octo libris monete antedicte & tempore pacis [valuit] xl s̃ eiusdem monete Et quod omnes & singule terre antedicte cum pertinenciis tenentur in capite de dicto supremo domino nostro Rege per seruicium Warde & Releuii/et quod nunc existunt in manibus ipsius serenitatis Juste per seipsum racione warde per decessum dicti quondam Johannis patris sui ob defectum legitimi heredis Jus suum hactenus minime prosequentis ad spacium sex mensium ultimo elapsorum aut eocirca Reseruata tamen coniuncta infeodacione dictarum terrarum de lathalland cum pertinenciis matri eiusdem Alexandri ac domine eiusdem per literas Regias desuper sibi confectas similiterque in Judicio ostensas & perlectas cum sua tercia omnium & singularum terrarum predictarum de lathalland kyttady & cragsunquhar cum earundem pertinenciis quarum Idem quondam Johannes obiit vestitus & saisitus Infra dictum vicecomitatum ut supra In quorum fidem etc

The quhilk day Johne kellok wes personaly summond in Jugement be command of the schiref deput to ansuere at the Instance of Johne wallace & to compeire in the schiref court that nixt cumis quhilk Is the xxiij day of maii that nixt cumis befor the schiref ore his deputis eftir the forme & tenour of his precept direct tharupone & upone the deliuerance of certane arbitratouris in the said actionis chosine of befor betuix thaim as in the sammyn

Is contenit Nouchtwythtstanding the said Johne kellok allegeand that because he wes summond of befor to ansuere upone the punctis contenit in the said Johne wallace precept for the quhilk he mycht get the coppy of the said summondis as accordis to Justice tharfor the said Johne kellok for to compeire the said xxiij day and to ansuere in the said actioune precyse to the said Johne wallace eftir the forme & tenour of the said preceptis & decreitis tharupone maid as said Is & Apud acta wnder the panys of law etc

Curia vicecomitatus de fife Tenta In pretorio burgi de Cupro per Willelmum meldrum & Thomam grundistoun deputatos eiusdem et eorum quemlibet coniunctim & diuisim xxiij^{o} die mensis maii Anno domini m^{o} v$^{c/o}$ vicesimo secundo sectis vocatis Curia affirmata etc 76r

The quhilk day Archbald Ramsay producit in Jugement ane procuratore of the lard Wemys togydder witht ane lettre of exempcioune of our Souerand lordis allegeand that quhar Johne kellok wes summond be ane precept tharto at the Instans of Johne wallace Nouchtwythtstanding the said Archbald procuratour for the said lard askit at the schireffis the said Johne kellok to be exemyt tueching the said actione & als offerit him to preve that the said Johne wes seruand to the said lard/& protestand quhat wer done herein till in contrare the said Johne kellok for remeid of law protestacio

The quhilk day williame meldrum schiref deput proponit sayand that as to the lettre of exempcione producit be Archbald Ramsay procuratour for the lard wemys for to exeme Johne kellok that because the said Johne kellok wes noucht the lardis househald mane nore his tennent nore his kynnisman nore 3hit he tuke na feall of him/ quharfor the said Johne aucht noucht to be exemyt Neuirtheles the said Williame offerit in the mene tyme to the said Archbald that gif he wald preve thane in to Jugement that he wes the lardis feyt seruand & tuke

feall of him as household mane that he sould be admittit in the said lardis exempcioun / And because the said Archbald wald noucht preve & refusit as thane/the said Williame put the mater to execucion upone the punctis contenit in the precept of summondis maid tharupone And ressauit certane preuis & deposicionis of witnes of Johne wallace tharto summond quhilkis wes sworne etc

protestacio

The quhilk day the said Archbald procuratore foresaid In lykwyse askit the lard of seyfeild to be exemyt as be vertu of the kingis lettres producit tharupone as he that wes summond tharto at the Instance of george petcarne eftir the tenore of ane precept direct tharupone because the lard of wemys & the said lard seyfeild wes thrid & ferd of kyne protestand quhat wer done be the said schireffis in his contrare as thane for the remeid of law

continuatur

The quhilk day the said Archbald procuratour for the lard seyfeild on ane part & george petcarne for him self on ane uthir part wytht consent of baytht the parteis & thar procuratouris In the actioun & cause persewit be the said george upone the said lard as in ane precept of summondis tharupone direct mare fullely Is contenit Is in hoip of concord continewit in all effect & forme as now Is but preiudice of partii to settirday the vij day of Junii that nixt cumis And the witnes that wes summond upone the said actione ar summond in Jugement for to compeire the said day & to depone tharintill Apud acta

The quhilk day in the actioun & cause persewit be Johne wallace upone Johne kellok that is to say for the wranguis wythhalding resetting & spoilȝeing be the said Johne kellok & his seruandis fra the said Johne wallace of twa hors ane blak & ane broun as in ane precept of summondis tharupone maid & direct mare fullely Is contenit/the said Johne wallace producit certane preuis witnes tharto summond for to preve the said spoilȝe & the avale tharof/ the quhilkis personis comperand sworne & accusit and deponit tharintill Eftir the quhilk deposicionis takine the saidis preuis & witnes be thar greit aitht sworne beand admittit preuit the said spoilȝe & the avale of the sammyn

as in the said precept of summondis tharupone maid mare fullely Is contenit/And thane the said schireffis decernit & decreitit wytht the avale of the haile court & assessouris present for the tyme that the said Johne kellok & his seruandis dyd wrang committing the said spoilȝe & the resetting tharof & ordanit for to restore agane to the said Johne wallace the saidis twa hors price xij merkis orc the avale & price foresaid quhilk wes resett be the said Johne kellok lyke as wes sufficiently preuit in Jugement & ordanis preceptis gif neid beis to be direct to compell & distrenȝe the said Johne kellok for the sammyn And als the said Johne kellok be decreit of court wes in amerciamentis of court tharfor and for null defence because ane way in resetting of the said spoilȝe & als because he wes lauchfully summond tharto & comperit noucht//

Curia viceconitatus de fife Tenta In pretorio burgi de Cupro per Thomam grundistone deputatum eiusdem xxviij° die mensis maii Anno domini m° v^c/o xxij° etc 76v

Nomina Inquisicionis

Johne clapam of kerslogy
Williame bruce of erlishall
Johne forster of newtoun
Alexander sibbald of Ramkelour
Alexander louchmalony of that Ilk
Maister Johne spens of marestone
Williame seiton of Ramgally
Johne haye of fudye
the lard of blabo
Alexander narne of sandfurd
Dauid tullo of hylcarny
Thomas hay of sandfurd
George ertht of smetoun

The quhilk day the lady of newtoun wes [be] the said terce Inqueist seruit of hir resonable terce of all and sindry the landis & pertinentis of the sammyn of quhilkis the lard of newtoun hir spouse deit last vestitut & saisit as of fe/ of [the] quhilkis landis the said lady Is befallin be cavillis drawine & in Jugement cassine the sone cavill of the sammyn And the schiref decernit ane precept wytht ane officiar to pas entir & bekene the said lady to hir terce

landis wytht toftis croftis & pertinentis tharof as wsse & consuetud of the Realme

Qui Jurati dicunt quod quondam Jacobus gardine de newtone pater dauid gardine latoris presencium obiit ultimo vestitus & saisitus ut de feodo ad pacem & fidem Supremi domini nostri Regis de uniuersis & singulis terris de westir newtone cum pertinenciis Et de terris de estir newtoun cum tenentibus & tenendriis earundem/et de terris de wod havine cum pertinenciis et piscariis earundem et de le coytlandis & brewlandis de sandfurd aceciam de le outsettis & Insettis dictarum terrarum cum earundem pertinenciis Jacentibus in baronia de Nauchtane & Infra vicecomitatum de fife Et quod dictus Dauid presencium lator est legitimus & propinquior heres eiusdem quondam Jacobi patris sui de totis & Integris terris prenotatis tenentibus tenendriis piscariis coytlandis brewlandis outsettis & Insettis cum earundem pertinenciis/et quod est legitime etatis et quod nunc valent per annum vigenti libris monete scocie & tempore pacis valuerunt xij libris eiusdem monete Et quod tenentur in capite de dicto Supremo domino nostro Rege per seruicium warde & releuii Et quod nunc existunt in manibus ipsius serenitatis Juste per seipsum racione warde per decessum dicti quondam Jacobi patris sui ob defectum legitimi heredis Jus suum hucusque minime prosequentis ad spacium trium mensium ultimo elapsorum aut eocirca In quorum fidem etc

Curia vicecomitatus de fife tenta in pretorio burgi de Cupro per georgeum strang de balcasky willelmum meldrum & Thomam grundistone deputatos eiusdem et eorum quemlibet coniunctim & diuisim tercio die mensis Junii anno domini m° v^c/o xxij° etc

Nomina assise

Petir creichtone of nauchtan knicht
the lard of cardwane
Maister Johne spens of maretone
Thomas berclay of Rynd

Williame archbald of blakhall
Dauid kynnynmont of that Ilk
Thomas dudinston of kyl-duncan
Dauid tullo of hylcarny
Alexander narne of sandfurd
Johne haye of fudy
Johne strang of balcasky
george ertht of smetone
Johne ramkelour of that Ilk
Johne Inglis tutour of teruat
florymond martyn of gyblestone

The quhilk day Andro lundy of straiherly producit in Jugement ane lettre of procuratorie of walter lundy of pratris in the quhilk the said Andro procurator askit the said schireffis to mak the landis of pitmuly to be apprisit to the said walter eftir the tenour & forme of our souerane lordis lettres direct tharupone

The quhilk day williame meldrum schiref deput commandit & chargeit in our Souerane lord the kingis name the saidis personis of assise as thai that wes sworne/for to apprise the landis of pitmuly to waltir lundy of pratris for the soume contenit in the kingis lettres direct tharupone & eftir the tenour of the sammyn uthir affirmatiue ore negatiue & ore thai passit furtht of the tolbutht wnder the panys contenit tharintill etc 77r

The quhilk day Thomas berclay chancellar of the said assise deponit be his aitht that the said assise coutht noucht deliuer upon the apprising of the landis of pitmuly/ because thai knew noucht the avale tharof nore hed na preif upone the diuision of the saidis landis nothir be write nore uthir ways Nouchtwythtstanding the said assise offerit thaim for to deliuer upone the said apprising sa thai mycht hef ony preif of the avale of the saidis landis etc

The quhilk day Thomas berclay of Rynd producit in Jugement our Souerane lordis lettres Impetrate be george erle of Roithes dischargeing the schiref & his deputis And to decyst & cesse fra the punding of the taxt contenit in his Rollis/except the landis being in his propir handis Nouchtwythtstanding that the fyft day of this moneth

Is the last day of the Inbringine of the haile taxt to the gouernour as the lettres tharupone direct proportis

Curia vicecomitatus de fife Tenta in pretorio burgi de Cupro per georgeum strang de balcasky willelmum meldrum & Thomam grundistone deputatos eiusdem ac eorum quemlibet coniunctim & diuisim quarto die mensis Junii anno domini m° v^c/o xxij° etc

The quhilk day comperit Alexander wemys of myrecarny & producit in Jugement oure Souerane lordis lettres as he that wes schiref in that part dischargeing the schireffis of fife & thar deputtis anentis the proceiding of ony maner of calling be summondis tharto of Adame lyndesay of dowhill be the schireffis precept tharupone direct at the Instance of williame hog & maister williame lundy wytht utheris personis contenit in our said Souerane lordis lettres upone the quhilk productione of the saidis our Souerane lordis lettres & dischargeing of the saidis schireffis & thar deputtis tharof/the dait of the saidis lettres the xxvij of maii etc of the Regnne the nynt ȝere etc [27 May 1522]

The quhilk day In the actioun of cause mouet be maister Johne spens of the marestone upone the lard of Rerasse as in ane precept of summondis tharupone maid & direct proportis the quhilk actioun Is wytht consent of the said maister Johne And Thomas berclay of the Rynd & williame forebas procuratouris for the said lard of Rerase continewit the said actione in all effect & forme as It now Is to settirday the xxj day of Junii instant but preiudice of partii And the said partes & procuratouris summond tharto in Jugement Apud acta the quhilk continuacione Is in hoip of concord And because the saidis partes ar compromittit to certane frendis And to convene in Sanctandrois wythtin the paroche kyrk of the sammyn upone fryday cum aucht dais nixt & immediat here eftir baytht the saidis partes & personis and quha that failȝes the partii noucht comperand wytht thar personis for thaim chosin for to pay to the partii comperand the soum of xx^tl ℔

Curia vicecomitatus de fife Tenta in pretorio burgi de Cupro per willelmum meldrum & Thomam grundistoune deputatos eiusdem coniunctim & diuisim vij° die mensis Junii anno domini m° v^c/o xxij°

The quhilk day maister Thomas wemys prelocutor for maister williame lundy producit in Jugement our Souerane lordis lettres togydder wytht ane precept of the schireffis direct tharupone/for to knaw upone ane actione of spoilȝe of certane gudis spoilȝeit be Adame lyndesay of dowhill & his complicis furtht of the landis & grond of southtirfaufeild fra the said maister williame & his spouse & thar tennentis of the sammyn as in the said precept is contenit/etc 77v

The quhilk day Archbald Ramsay procuratour for the lard of seyfeild [*protestit*] for to be exemyt be the kingis lettres as he that wes summond lauchfully tharto at the Instans of george petcarne/etc

The quhilk day the schireffis askit gif ony personis wald lauchfully obpone in the productione of witnes of certane personis tharto summond for to preif the spoilȝe committit be Adame lyndesay of dowhyll & his complicis upone maister williame lundy & his spouse & thar tennentis of southtirfaufeild/& this proclamacione maid at the tolbutht dure & nane comperand/Nouchtwythtstandine the said schireffis here eftir Ressauit the deposicionis of the said witnes in the said actione/etc

The quhilk day in the actioun & cause of spoilȝe persewit be maister williame lundy & his spouse gelys wemys & thar tennentis of thar landis of southtirfaufeild upone Adame lyndesay of dowhyll & his complicis that is to say anentis the wranguis spoilȝeing away taking & withthaldine of certane cattell as hors nolt & scheip fra thaim furtht of thar landis of southtirfaufeild as in ane precept of summondis tharupone maid mare fullely Is contenit/ the said maister williame for him self & his said spouse & thar tennentis & thar procuratouris comperand togydder witht certane personis tharto lauchfully summond for to maister williame lundy

preif the said spoilȝe And als at the command of our Souerane lordis lettres of new raisyt be the said maister williame quhilkis wer direct to the schiref of fife & his deputtis for to put the sammyn to dew execucione eftir the forme & tenour of the sammyn & to proceid & minister Justice to thaim tharin/The said Adame lyndesay being lauchfully summond to this court be ane precept of the said schirefis as the Indorsing tharof beiris to hef comperit for to heire & se the saidis cattell sa spoilȝeit preuit & the avale tharof/the said Adame being oft tymes callit & noucht comperit/nore nane uthir lauchfull procuratore for him nore in his name nore to except aganis the Juge [and] membris of court nore ȝit the productione of the saidis witnes/The foresaidis preuis being sworn admittit & accusit/ & deponit eftir thar greit aitht sworne & eftir thar wnderstanding & knawleige Eftir the quhilk deposicionis takine & clerelye preuit/It wes decernit & decreitit that the said Adame lyndesay wranguisly Iniustly & wnordorely tuke & spoilȝeit thir gudis wnderwritine fra the said maister williame & gelys wemys his spouse & thar tennentis of southtirfaufeildis/that is to say viij kye wytht thar cauffis price of the pece xl s̃/v ȝoung kye price of the pece ane mark/twa ȝoung oxon price of the pece xiiij s̃/x rouch [1] ȝowis wytht thar lammys price of the pece viij s̃/ ane ram price vj s̃ viij đ/ane wedder price vj s̃ viij đ/xxiij hoggis price of the pece iij s̃/ane hors price v merkis & ane meyre price xl s̃ And als lousyt thar pleuchis in tym of thar laubouris in contrare the statutis of the Realme & actis of parliament maid tharupone Quharefor It wes decreitit that the said Adame sould restore agane the foresaidis cattell & gudis to the personis & grond that thai wer takine fra ore the prices foresaid And failȝeing tharof precept to be direct to officiaris for to pund & distrenȝe gif ned wer for the sammyn according to Justice And the said Adame in amerciamentis of court for the said spoilȝe The quhilk decreit wes pronuncit in Jugement be the schiref foresaid etc

[1] Rough, *i.e.* unshorn.

James be the grace of god king of scottis to our louittis dowhill maister Johne lyndesay Robert aytone & Alexander wemys our schireffis in that part coniunctlie & seueralie specialie constitut greting/foresamekle as It Is humilie menyt & schewin to ws be our louet Adame lyndesay of douhyll that quhar he for him self & as assignay to elezabetht aytone hes be our gyft the ward of the landis of southtirfaufeild & optenit our lettres be the deliuerance of the lordis of our consale direct to certane our officiaris schireffis in that part to distrenȝe for the mailis & dewites of the said ward landis thane restand of termes bygane & termely in tyme tocum wytht the quhilkis lettres| Alexander caremage messingere our schiref in that part 78r passit & pundit certane nolt scheip hors & wthir gudis pertening to the tennentis of the saidis landis for mailis girsoumes & dewites aucht be thaim tharof to the said Adame for the termes byrunnyn And gert apprise the saidis gudis lauchfully upon the grond & at the mercat croce of our burgh of couper & deliuerit the sammyn to the said Adam for payment of the saidis mailis & dewiteis as the said Alexanderis Indorsing of the saidis lettres beiris Neuirtheles our schiref of fife & his deputtis hes summond the said Adame befor thaim at the Instance of williame hog williame wilȝamesone henry nicholson thomas gray & maister williame lundy tennentis & occupiaris of the saidis landis for allegeit spoilȝe of the sammyn gudis quhilkis wer lauchfully pundit and apprisit be our said schiref in that part and deliuerit be him to the said Adam for the payment of the mailis & dewiteis of the saidis ward landis as said Is in greit truble & skaytht to the said Adame & aganis Justice gif sa be Our will is herefor & we charge ȝou straitly & commandis that incontinent thir our lettres sene ȝe pas & in our name & autorite command & charge our said schiref of fife & his deputtis to decyst & cesse fra all proceiding in the said mater wnder al the hiest pane & charge that eftir may follow dischargeing him & his deputtis of thar office in that part be [1] thir our

[1] Originally *because* and *cause* deleted.

lettres because our schireffis ordinaris hes na cougnicione upone the thingis done be our schireffis in that part And gif thai do wrang that thai be callit tharfor befor the lordis of our consale The quhilk to do we committ to 3ou coniunctlie & seueralie our full power be thir our lettres deliuering thaim be 3ou deulie execut & Indorsat agane to the berare Gevin wnder our Signet at Edinburgh the xxvij day of maii & of our Regnne the nynt 3ere

[27 May 1522]

master williame lundy

James be the grace of god king of scottis to our schiref of fife & his deputtis greting/foresamekle as It is humilie menit & schewin to ws be our louitis maister williame lundy & gelys wemys his spouse that quhar thai thar tennentis & seruandis hes ane quartir of the landis of southtirfaufeild plenist wytht thar awine seruandis & gudis traisting na truble tharin Adam lyndesay of douhill & his complicis hes now laytly spoil3eit fra thaim out of the saidis landis viij greit kye witht thar followaris v 3oung kye twa 3oung oxon ten rouch 3owes witht thar lammys a Ram a wedder xxxiij rouch hoggis a hors & a meyre & lousit thar pleuchis in tyme of lauboring of thar beresed [1] And hereupone thai menyt thaim to 3ou & 3e hef be 3our precept gert summond the said Adam to 3our schiref court of fife to ansuere to thaim upone the said spoil3e this nixt settirday/howbeit thai dred to be deferrit be mene [2] of partii Our will is herefor & we charge 3ou straitly & commandis that 3e call baytht the saidis parteis befor 3ou the said day And gif 3e fynd the said maister williame his spouse & thar seruandis & tennentis ar spoil3eit be the said Adam of thar gudis as said Is that 3e incontinent mak the samyn be restorit agane to thaim ore the availe tharof as thai may sufficiently preif And that 3e proceid & minister Justice evinly in the said mater as 3e will ansuere to ws upone the execucione of 3our office Deliuering thir our lettres be 3ou deulye execut & indorsat agane to the berare gevin wnder our Signet at Edinburgh the vj day of Junii & of our Regnne the nynt 3ere

[6 June 1522]

[1] Barley seed.

[2] Complaint.

James be the grace of god king of scottis to our schiref pittinweme of fife & his deputtis greting forsamekle as It Is humilie menit & schewin to ws be our louit familier clerk & consalour Maister robert formane dene of gleskew commendatour of our abbay of pittinweme that quhar he hes bene in our derrest cousing & tutour the gouernouris seruice of lang tyme lyke as he is 3it Neuirtheles george strang of balcasky hes purchest our utheris lettres direct to 3ou to tak cougnicione in quhat possession he is & hes bene in of the landis quhilkis he allegeis debatable betuix his landis & the landis of our said abbay/the quhilk cougnicione Is to be takine upon the xvij day of Junii instant And the said maister Robert knew noucht the samyn quhil the xvj day of the said monetht And sua the said george tendis to do greit hurt & preiudice to our said abbay & the said maister Robert commendatour tharof foresaid quhilk hes maid na provisioun for his defence in the said mater to his greit apperand skaytht & aganis Justice gif sabe Our will is herefor & we charge 3ou straitly & commandis that incontinent thir our lettres sene 3e continew our saidis utheris lettres direct to 3ou to tak cougnicione in the said mater for the space of x dais nixt tocum eftir the day & dait hereof because the said maister Robert Is in our seruice & wyst noucht of our saidis utheris lettres nore of the day affixit be 3ou for the taking of the said cougnicione as ane deliuerance of the lordis of our consale tharupone beris this 3e do wythtout delay as 3e will ansuere to ws upone the execucione of 3our office sua that in 3our default we here na rychtwis complant tharof in tyme cuming Deliuering thir our lettres be 3ou sene & wnderstandin & execut as efferis agane to the berare gevin wnder our signet at Edinburgh the xvj day of Junii & of our Regne the nynt 3ere etc [16 June 1522]

Curia vicecomitatus de fife Tenta In pretorio burgi de Cupro per Willelmum meldrum et Thomam grundistone et eorum quemlibet coniunctim et diuisim deputatos eiusdem xxj° die mensis Junii Anno domini millesimo quingentesimo xxij° etc 78*v*

NOMINA ASSISE

the lard pitlour	Richerd skynnar
Dauid pringill	James balmane
Henry baxster	Dauid touch
george scott	Williame hwnymane
Williame baward	Johne hwnymane
Robert kincragy	Waltir millar
James payge	Johne quhite
Patrik wallace	Alexander bontauerne
Johne stanys	Johne lassellis
Thomas freremyll	

The quhilk day comperit in Jugement Thomas berclay of the Rynd procuratour [1] as he allegeit [1] for the lard of Reras In the actione & cause betuix maister Johne spens of marestone & the said lard proponit sayand that he Is exemyt in the lard of wemys exempcione as in our Souerane lordis lettres producit & allegeit proportis quharfor the said Thomas protestit that gif the schireffis wald proceid in the said mater forthir/for the remeid of law

The quhilk day williame meldrum schiref deput askit the said Thomas berclay his power & lettre of procuratorie togydder wytht the lettre of exempcione quhilkis the said Thomas allegeit to for the defence of the said lard & to be producit schewin & Red in Jugement as efferit/the quhilkis the said Thomas producit nore schew nane/quharfor the said schiref deput procedit in the said actioun eftir the forme & tenour of the schireffis precept direct tharupone

decolacio andersone

The quhilk day williame andersone Inditit & accusit for the cruell slauchtir of James allerdes and for art & part tharof cumand upone him & cruelly slew him wytht ane knyff/the said action being put to the knawleige of the forewritine assise/the quhilkis personis of assise furtht of court remouet & agane returnand haifand god befor ene al in anc voce concordand And be the moutht of the lard pitlour chanceller of the sammyn deponit that thai

[1] Added above the line.

coutht noucht qwyt the said williame of the cruell slauchtir of the said James Quharfor the schireffis causit murdow hob dempstar for to give dome tharupone/that the said williame andersone sould be hed to the heyding hyll & thar to stryk of his heyd fra his body for the committing of the said slauchtir

The quhilk day in the action & cause of spoilȝe persewit be maister Johne spens aganis & upone the lard of Reras for the wranguis spoilȝeing away taking & withthalding fra him furtht of the landis of ballasse as in ane precept of summondis tharupone maid proportis the said maister Johne personaly comperand for him self in Jugement/ togydder wytht certane prewis tharto lauchfully summond for to preif the said spoilȝe & the avale tharof/the said lard of Reras being ofttymes callit at the tolbutht [dure] ore ony uthir lauchfull procuratour for him in his name for thar defence in the said mater & to here & se the personis preuis sworne for to depone tharin till ore to except in contrare thaim gif thai ony lauchful excepcione had And because that nothir the partii nore procuratouris comperit as said Is/the foresaid schireffis deputis ressauit the deposicionis of the saidis witnes thai being sworne tharto/The quhilkis personis preuit that the said lard of Reras wranguisly & wnordorelie spoilȝeit fra the said maister Johne furtht of the landis & grond of ballasse quhilk he hed in assedacione of the lard Randelstone of viij ky eldar & ȝoungar price of the pece of the auld kow xl s̃ price of the pece of the ȝoung kow xxvj s̃ viij đ/Item four oxon price of the pece xl s̃/vj wedderis price of the pece vj s̃ witht the woll on thar bakkis Item ten dylmontis [1] & fyfte gymmeris [2] price of the pece iiij s̃ witht thar woll Quharfor It wes decreitit that the said lard of Reras sould restore & deliuer agane to the foresaid maister Johne and|grond of ballas the foresaid kye oxone & scheip als 79r
gud as thai wer in the tym of spoilȝeing of thaim fra him ore than the avale & prices foresaid because thai wer

[1] Wedders in their second year, or once shorn.
[2] Ewes in their second year, or once shorn.

wranguisly & Iniustly takine as said Is & this to be restorit wythtin the term of law/And the said lard of Reras in amerciamentis of court tharfor/This decreit gevin & pronuncit in Jugement

[1] Curia vicecomitatus de fife Tenta super fundum terrarum de balcasky per honorabilem virum Johannem magistrum lyndesay de pitcrowy militem vicecomitem de fife xvij° die mensis Junii anno domini m° v^c/o xxij°

The quhilk day comperit in Jugement george strang of balcasky & his prelocutor maister thomas wemys & presentit our Souerane lord the kingis lettres direct to the schiref of fife & his deputis chargeing thaim be vertu of the samyn to tak cougnicion of the possession of ane part of the landis of balcasky pertening to the said george in heretage and haldin of our said Souerane lord the king quhilkis landis maister Robert foremane dene of gleskew and his bailze & tennentis of pittinweme manuris occupeis laubouris & appropreis to thaim & thar saidis landis of pittinweme lyke as our said Souerane lordis lettres proportis togydder wytht the said schireffis precept conforme to our said souerane lordis lettres quhilkis summond baitht the saidis parteis lauchfully upon xv dais And ane sufficient nowmer of ane assise & Inqueist to pas upone the said cougnicion takine tueching the possession of the saidis landis pertening to the said george And thareftir the schiref foresaid maid our said souerane lordis lettres to be oppinly Red in plane court wytht the said schireffis precept deulye execut & indorsat And callit baytht the saidis parteis to here & se the said cougnicion takine And als ane sufficient nowmer of assise & Inqueist of barronnis frehaldaris and utheris famos personis quhilkis comperit to pas upon the said cougnicione takine And thane incontinent dene bartholomo foremane chalmerlane of pittinweme wytht twa brethir channons of the said abbay

[1] A previous rubric, *Curia vicecomitatus de fife Tenta In pretorio burgi de cupro per Willelmum meldrum & Johannem petcarne deputatos eiusdem*, started and then deleted.

producit ane lettre of continuacione in the name & behaw of the said maister Robert & convent of the said abbay of our said Souerane lordis direct to the said schiref of fife & his deputis to continew the taking of the said cougnicione the dait tharof the xvj day of Junii instant chargeing the said schiref & his deputtis to continew the samyn as said Is of the possessioun of the landis foresaid for the space of ten dais nixt here eftir following The quhilkis lettres the schiref foresaid obeyt in al punctis And be vertu of the samyn hes continewit the said court & cougnicion takine wytht consent of baytht the saidis parteis & thar procuratouris being present for the tyme in all effect & forme as it now Is & wythtout preiudice of ony of the saidis parteis to the fyft day of Julii that nixt cumis And the foresaidis parteis & thar procuratouris & als personis of Inqueist & assise tharto summond of befor ar summond now in Jugement Apud acta curie to compere at day & place foresaid etc

Curia vicecomitatus de fife Tenta super fundum terrarum de balcasky per Willelmum meldrum deputatum eiusdem quinto die mensis Julii Anno domini m° v$^{c/o}$ xxij° etc

The quhilk day george strang of balcasky & Maister Thomas wemys his prelocutor comperit in Jugement & presentit to him our souerane lordis lettres direct to the schiref of fife & his deputis of befor togydder wytht ane act of continuacion maid be vertu & command of our said souerane lordis lettres & wytht consent of baitht the saidis parteis & thar procuratouris & askit the said schiref to proceid in the cougnicione takine of the possessione of the saidis landis of balcasky eftir the forme & tenour of our said souerane lordis lettres and act of continuacion maid tharupone of befor The foresaid schiref obeyand our saidis souerane lordis lettres in al punctis And thareftir maid the saidis parteis be callit tharto & fore ministering of Justice in the said mater and personis of Inqueist to hef passit upone the samyn And thareftir comperit in Jugement Thomas dischingtone bailȝe of the landis of

pittinweme and dene bartholomo foremane chalmerlane of the abbay of pittinweme in the name & behawe of maister Robert formane & convent of the said abbay & producit|
79v ane lettre of continuacione of our Souerane lord the kingis of new chargeing the said schiref and his deputtis to continew the said cougnicioun takine of the possessione of the landis foresaid to the last day of Julii Instant/the quhilkis lettres being in Jugement oppinly Red & wnderstandine be the said schiref hes obeyit the samyn in all punctis And be vertu of our said Souerane lordis lettres and als witht consent of baitht the saidis parteis & thar procuratouris and prelocutouris for the tyme hes continewit the said mater of cougnicione takine in all effect & forme as It Is now but preiudice of ony of the parteis to the said last day of Julii And the foresaidis parteis & procuratouris and als the personis of Inqueist being oppinly summond In Jugement as of before to compeire day & place foresaid Apud acta curie etc

Curia vicecomitatus de fife Tenta in pretorio burgi de Cupro per willelmum meldrum & Johannem petcarne deputatos eiusdem xxiij° die mensis Julii Anno domini m° v^c/o xxij°

Non obstante sede parliamenti de qua litere Regie desuper presentate in Judicio que lecte pro dispensacione huiusmodi adhibenda etc

The quhilk day maister James kynnynmontht constitut & ordanit Johne clapam of kerslogy Maister thomas wemys george ertht & dauid hay [1] in Ardet [1] his procuratouris & actouris Irreuocable in the actione betuix Alexander kincayd & his wyf on ane part & the said maister James one that uthir part the said maister James promittand ferme & stable etc

The quhilk day quhare maister Thomas wemys procuratore foresaid producit in Jugement ane lettre of exempcioun as he allegeit/the dait tharof gevin At gleskew

[1] Repeated.

the fyft day of marche And of the Regnne of our souerane lord the viij 3eris/Nouchtwythtstanding the said schiref deput proponit in contrare sayand that that said lettre wes adnullit be the lordis of consale & tharupone [1] lettres of our said Souerane lordis hed to schaw quharfor he wald noucht admit the sammyn etc [5 Mar. 1521]

Curia vicecomitatus de fife Tenta in pretorio [burgi de Cupro] per Thomam grundistone deputatum eiusdem vicesimo nono die mensis Julii anno domini m° v^c/o xxij°

The quhilk day in the action & cause betuix Andro ferny of that Ilk on ane part & Isobel lundy his modir & dauid scott hir spouse on that uthir part/the foresaid Isobell & dauid comperand & noucht callit nouchtwithtstanding the saidis dauid & Isobell to be summond to the xviij day of August that nixt cumis and to ansuere at the Instance of the said Andro eftir the forme & tenour of ane precept direct tharupone

The quhilk day the cougnicione to be takine be the schiref of the landis pertening to my lord Roithes tueching the diuision of the saidis landis being furtht of his handis for the paying of our souerane lordis taxt as the kingis lettres tharupone direct proportis the said schiref deput [2] for debilite of court hes continewit the said cougnicione takine to the viij day of August that nixt cumis & decernis preceptis [to] be direct to summond certane personis tharto eftir the forme & tenour of our said Souerane lordis lettres

And upone the said viij day of August comperit in Jugement in the said schiref court haldin in the tolbutht of couper thir personis wnderwritine that is to say Thomas forster of strahenry Thomas lummisden of condelane Thomas smytht in leslye Johne tod in balquhomry henry burt in balgothrye & Thomas tomson in furmand hyllis/ quhilkis personis being be the schireffis precept hereto summond eftir the forme & tenour of our Souerane lordis [8 August 1522]

[1] *schew* deleted here.

[2] *the said schiref* repeated here.

lettres direct tharupone that is to say as tueching the cougnicion to be takine of the avale of the landis of my lord Roithes being in his awine handis & manuring And utheris utoutht his handis lyand withtin the barony of lesly quhilkis is to be taxt to our said souerane lord & gouernour extending to the soume of xxiij ℔/the quhilkis personis havand thir foresaidis landis witht the saidis landis eftir followis/drummane & bawsylle in the lard balgonys handis/the taxt tharof vij ℔/little balquhomrye the hoyll & furmand hillis in maister Johne hepburnis handis the taxt tharof iiij ℔ x ℈/ballingall in waltir heriotis handis/ the myll of the samyn in george balfouris handis the taxt tharof iiij ℔ x ℈/the manys of lesly pitgeddy & bynȝardy in my lord Roithes handis the taxt tharof vij ℔/quhilkis personis be thar grete aithis sworn hes estymyt the said xxiij ℔ to be payt & taxt in forme abone exprimyt etc

80*r* **Ramsay of culluthy**

James be the grace of god king of scottis to our louittis [ ][1] our schireffis in that part coniunctlie & seueralie specialie constitut greting Forsamekle as It Is humilie menit & schewin to ws be our louit Dauid Ramsay of culluthy that quhar williame lyndesay sone to our consing patrik lord lyndesay of the byris witht the said patrikis houshald men & seruandis now laitly cruelly slew Thomas balfour of dovine the said Dauidis gud brothir & hurt & lamyt his syster the said Thomas wyf And thareftir the said patrik our schiref principale of fife & the said williame his deput standand deidly Inemys to the said Dauid hes solyst our lettres to be direct to thaim self at the Instance of margaret seitone the Relict of wmquhill Johne bonar of Rossy to call him befor thaim in ane actioun mouet be hyre aganis him anentis his landis callit moncurris landis thai being his Inemys & suspect to be his Juge in gret aperand skaytht & hurt to him in his heretage gif sabe Our will is herefor and we charge ȝou straitly & commandis that incontinent thir our lettres sene ȝhe pas & [in] our name & autorite command & charge

[1] Blank in manuscript.

our said schiref principale of fife to deput ane wnsuspect deput in the said mater wytht consent of baytht the saidis parteis to proceid & do Justice tharin because our said schiref principale Is suspect to be Juge to the said Dauid And that ȝe command & charge our said schiref to cesse fra all proceding in the said mater bot be his said deput to be chosin tharto be the avyse of baytht the saidis parteis as said Is wnder all pane & charge that eftir ma follow The quhilk to do we committ to ȝou coniunctlie & seueralie our full power be thir our lettres Deliuering thaim be ȝou dewly execut & Indorsat agane to the berare gevin wnder our Signet At Edinburgh the xx day of december & of our Regne the nynt ȝere [20 Dec. 1521]

Ex deliberacione dominorum consilii Chepmane

James be the grace of god king of scottis to our schiref of fife & his deputis greting Foresamekle as It is humilie menit & schewin to ws be our louit margaret seiton the Relict of wmquhil Johne bonare of Rossy that quhar scho hes the landis callit moncurris landis pertening to hyre in lyfrent quhilkis williame bonar sone & aire of wmquhill the said Johne bonar of Rossy & his predecessouris hes brukit heretabilly haldin of ws & our predecessouris immediatly be the space of lxvij ȝeris bygane Neuirtheles Dauid ramsay of culluthy pretendand him to tak our tennent fra ws hes maid ane pretendit [summons] upon the said margaret & hir sone williame bonar to compeire in his court howbeyt thai ar na tennentis to do nore aw to him nothir soyt nore seruice for the saidis landis bot haldis thaim of ws immediatly as said Is And as thai ar Informyt hes gevin ane pretendit sentens aganis thaim in his court wytht dome tharupone And albeyt the said dome Is nul in the self tamquam sententia a non suo Judice lata thai hef appeilyt tharfra to ȝou as Juges ordinar for remeid eftir the lawes & consuetud of our [1] Realme And now laytly he hes violently put hir pleuch out of hyre saidis landis tendand hym to spoilȝe hyre of lady Rossy

[1] *the* deleted and *our* added above the line.

hir possession tharof be way of deyd and to Intruse him tharintil as ane violent possessore contrare Justice gif sabe Our will Is herefor & we charge 3ou straitly & commandis that incontinent thir our lettres sene 3e call baitht the saidis parteis befor 3ou that is to say the said Dauid ramsay & his pretendit bail3e to produce before 3ou thar processe & Rolment of court of the said pretendit sentence & dome and to here the sammyn discussit befor 3ou as ordinar Juge And that 3e proceid & minister Justice evinly tharintil eftir the forme of our lawes And warne our aduocate tharto for our Interes And tak cougnicione gif the said margaret be in possessione of the saidis landis And gif sa beis fundin that 3e keip hir tharin quhil scho be lauchfully callit & ordorelie put tharfra according to Justice This 3e do as 3e will ansuere upone the execucion of 3our office Deliuering thir our lettres be 3ou deulye execut & Indorsat agane to the berare Gevine wnder our [18 Nov. 1521] Signet At Edinburgh the xviij day of nouember and of our Regne the nynt 3here

Ex deliberacione dominorum consilii Chepmane

elestone James be the grace of god king of scottis to our schiref of fife & his deputis And to our louittis [ ][1] messingeris our schireffis in that part coniunctlie & seueralie specialie constitut greting Foresamekle as It Is humilie menyt & schewine to ws be our louittis the wyf barnis kyn & frendis of wmquhill Alexander eleston that dauid sibbald eldar Dauid sibbald his son williame paige Dauid kynneire williame kynneire Andro greg & his wyf James [80 verso blank] daurympill henry orknay elene tail3eour williame murray & Robert allane com upon the said wmquhill Alexander| 81r at his awine maling in pit3eouchir & cruelly slew him in herwyst last bypassit in contempning of our autorite & lawes Our will is herefor & we charge 3ou straitly & commandis that incontinent thir our lettres sene 3e pas serch & seik the saidis personis & thar complicis dilatyt of the said slauchtir & art & part tharof sa mony as the wyf & barnis kyn ore frendis of the said wmquhil Alexander

[1] Blank in manuscript.

will mak faitht wer art & part of the sammyn And gif thai can be apprehendit that ȝe tak sicker souerte of thaim that is to say of Ilk gentilman landit wnder the pane of ane C lib Ilk gentilman wnlandit J^{c} merkis & Ilk ȝemman xl ℔ that thai sal compere befor our Justice the thrid day of our nixt Justice aire of couper ore quhar It sal pleis ws our derrest consing & tutore the gouernore upon xv dais warning to wnderly our lawes for the said slauchtir And gif thai be fugetyve ore refusis to fynd the sammyn that ȝe charge thaim be oppin proclamacion at the mercat croce of our burgh of couper to cum & fynd the said souerte to ȝou wythtin viij dais nixt eftir thai be chargeit tharto wnder the pane of Rebellion & putting of thaim to our horn The quhilk viij dais being passit & the said souerte noucht fundin that ȝe incontinent thareftir denunce thaim our rebellis & put thaim to our horn & escheit all thar movable gudis to our wsse eftir the form of our act of parliament The quhilk to do we committ to ȝou coniunctlie & seueralie our full power be thir our lettres Deliuering thaim be ȝou deuly execut & Indorsat agane to the berare Gevin wnder our Signet At Edinburgh the secund day of Januar & of our Regne the nynt ȝere [2 Jan. 1522]

Ex deliberacione dominorum consilii Chepmane

souerteis for the slauchtir of elestone

James be the grace of god king of Scottis to our schiref of fife & his deputis And to al utheris our officiaris in that part that beis requirit upon the execucione of our utheris lettres passit upone the slauchtir of wmquhill Alexander elestone greting Foresamekle as It is humilie menit & schewin to ws be our pure liegis henry orknay Robert allane James dawrympill Dauid kynneire margaret tailȝeour williame murray & [ ][1] the spouse of Andro greg pure coyttaris & lauboraris of the grond wythtin our schirefdome of fiffe/that quhar the said wmquhil Alexander eleston happinnit to be slane be dauid sibbald ȝoungar & Johne paige in herwyst last bypassit upone the feildis & upon the landis of pitȝeouchir for the quhilk slauchtir thai

[1] Blank in manuscript.

ar denuncyt our rebellis & put to our horn as fugetyve fra our lawes & hes tane tharthrou the said slauchtir upone thaim Neuir[theles] the saidis personis ar dilatyt for art & part of the sammyn thai being Innocent tharof that wes for the tyme scherand & wynnand thar masteris cornis on the feild quhen the said slauchtir wes committit & hed noucht ado tharwytht howbeit thai ar chargeit be 3ou our said schiref of fife & 3our deputtis be our saidis otheris lettres to fynd the said souerteis to 3ou to wnderly our lawes for the sammyn wythtin vj dais eftir 3our charge wnder the pane of Rebellion the said vj dais being passit & the souerte noucht fundin be thaim to put thaim to our horn thai being pure bodys & hes na takkis nore steidingis of thar awine bot seruandis & lauboraris of the grond to wtheris personis na thai can get na souerteis for thaim wnder the pane of xl ℔ because thai hef na gudis to Releve thar souerteis & sa tharthrou thai ar abill to be procest to our horne to thar hevye dampnage & skaitht & contrare Justice gif sa be Our will is herefor & we charge 3ou straitly & commandis [that] incontinent thir our lettres sene 3e tak Ilkane of the saidis personis souerte for utheris wnder the panys contenit in our saidis wtheris lettres to wnderly our lawes for the said slauchtir the thrid day of our nixt Justice aire of fife ore upon xv dais warning because It Is wnderstandine that thai ar pure lauboraris & can get na landyt mene to be souerte fore thaim & als ar dilatyt of malice as Is allegeit And this 3e do as 3e & Ilkane of 3ou will ansuere to ws tharupone & wnder al pane & charge that eftir may follow Deliuering thir our lettres be 3ou deuly execut & Indorsat agane to the berare gevin wnder our Signet
[21 Feb. 1522] At Edinburgh the xxj day of februar & of our Regne the nynt 3ere etc

Ex deliberacione dominorum consilii Bannatyne

81*v* frow mait James be the grace of god king of scottis to our schireff of fife & his deputtis greting forsamekle as It Is humilie menyt & schawine to ws be our louittis oratrice & wedo frow mait the Relict of wmquhill george muncreif of

tybermello And Robert muncref now of tybermello hir sone That quhar the said wmquhil george frow & Robert hes in tak of ws the landis of wrquhart lyand withtin our schirefdome of fife & hes brukit the sammyn be the space of thre score of 3eris bygane but ony stop ore Impediment quhil now laitly ane litle befor the last feist of lammes Johne beitoun of creich & his complicis hes cummyn to the said tak & maling And maisterfully put thar gudis furtht of the sammyn thai being closit withtin termes And noucht warnit lauchfully to remufe tharfra befor the last witsonday foresaid upon the quhilk the said wmquhill george & frow menyt thaim to the lordis of our consale & optenit our uthir lettres be thar deliuerance direct to 3ou to tak cougnicioune in the said mater And to keip thaim in possessione of the said tak quhil thai wer dischargeit as our saidis lettres beyris And as 3it 3he hef done noucht tharto as Is allegeit Our will is herefor & we charge 3ou straitly & commandis that incontinent thir our lettres sene 3e put our saidis utheris lettres direct to 3ou in the said mater befor to dew execucione And tak cougnicione gif the saidis frow Robert & the said wmquhill george muncrefe wer in possessione of the said tak eftir the terme of witsonday last bypassit And wer noucht lauchfully warnit befor the said terme to remufe & flyt tharfra And gif sa beis fundin that 3he keip & defend thaim in possessione tharof quhil the nixt terme of witsonday And in our name & autorite command & charge the said Johne beitone of creich to decyst & cesse fra al molestacion & trubling of the saidis frow & Robert in thar possessione occupacione & bruking of thar said tak [1] in the mene tyme wnder al pane & charge that eftir may follow because 3e ar Jugis ordinar And the said Johne beitone that is partii is our stewert of fife him self & sould noucht be Juge in his awin cause And this 3e do withtout delay as 3e will ansuere to ws upone the execucione of 3our office deliuering thir our lettres be 3ou dewly execute & Indorsaite agane to the berare gevine wnder

[1] *said* repeated here.

[15 Oct. 1520] our signet at Edinburgh the xv day of october And of our Regnne the viij ȝeris

Ex deliberacione dominorum consilii Chepmane

abircrummy James be the grace of god king of scottis to our schiref off fife & his deputis And to our louittis Dauid purwes [ ] [1] masaris Andro bonar williame cristeson messingeris our schireffis in that part coniunctlie & seueralie specialie constitut greting Foresamekle as It is humilie menyt & schewin to ws be our louit Alexander abircrummy sone & aire of wmquhill Thomas abircrummy of that Ilk/that quhar his modir margaret creichtone wes in hyre place of abircrummy traistand na evil of ony personis bot to hef levit wnder goddis peax & ouris Neuirtheles Robert wyntoun Dauid spens of wilmerston Dauid spens his sone & aperand aire Johne anstrothir of that Ilk Dauid anstrothir williame anstrothir his brethir [*Johne*] [1] forsytht of Nydy Johne lesly williame lesly Johne reyde seruandis to our consing george erle of Roithes of his causing command & assistance & thar complicis to the nowmer of lxxx of personis bodine in feire of Weire the x day of october last bypassit com to the said place of abircrummy And thar be force & violence Reft revest & tuke the said margaret furtht of the sammyn & demanyt hir to the effusion of hir blud in gret quantite Raif hyre haire band hyre on hors bak behynd ane seruand of tharis be the haire witht diuers utheris enormyteis wrangis & Iniuris to hir gret skaitht in contempning of our autorite & lawes gif sabe Our will is herefor & we charge ȝou straitly & commandis that incontinent [2] thir [2] our lettres sene ȝe pas [and] tak sikker souerte of the saidis personis & thar complicis committaris of the saidis crimes & revesing sa mony as the said Alexander abircrummy will mak faitht to ȝow wer art & part tharof And gevis thar names to ȝou in bill that thai sal compeire befor our Justice ore his deputtis the thrid day of our nixt Justice ayre of couper ore sounir upon xv dais warning quhen & quhare It sal

[1] Blank in manuscript.

[2] Repeated.

pleis ws our derrest consing & tutour the gouernore & lordis|of our consale to wnderly our lawes for the saidis 82r
crimes that is to say of Ilk gentilman landit wnder the pane of ane C lib Ilk gentilman wnlandyt Jc merkis & Ilk 3emman xl ℔ And that 3e charge thaim personaly gif thai can be apprehendit And failȝeing tharof be oppin proclamacion at our mercat croce of our said burgh of couper to cum & fynd the said souerteis to 3ou in maner forsaid withtin viij dais nixt eftir thai be chargeit be 3ou tharto wnder the pane of Rebellion & putting of thaim to our horn And the saidis viij dais being passit & the said souerteis noucht fundin that 3e incontinent thareftir denunce thaim our Rebellis & put thaim to our horn and escheit al thar movable gudis to our wsse Attour that 3e tak sikker souerte & lawborrowis of the saidis personis & thar complicis sa mony as the said Alexander abircrummy his modir foresaid kyn & freindis & thar seruandis will mak faitht befor 3ou thai dreid bodely harme & gevis thar Names to 3ou in bill that thai salbe harmles & skaithles of the saidis personis & thar complicis & al that thai may let in tyme cumin but fraud ore gyle bot as law will that is to say of Ilk gentilman landit wnder the pane of Jc lib Ilk gentilman wnlandit Jc merkis & Ilk 3emman xl ℔/ And that 3e charge thaim personaly gif thai can be apprehendit & failȝeing tharof be oppin proclamacion at the mercat croce of our said burgh to cum & fynd the said lauborrowis to 3ou in maner foresaid withtin vj dais nixt eftir thai be chargeit be 3ou tharto wnder the pane of Rebellion & putting of thaim to our horn/the quhilk to do we commit to 3ou coniunctlie & seueralie our full power be thir our lettres Deliuering thaim be 3ou deuly execut & Indorsat agane to the berare Gevine wnder our Signet At Edinburgh the xvj day of december And of our Regne the nynt 3ere [16 Dec. 1521]

Ex deliberacione dominorum consilii Chepmane

James be the grace of god king of Scottis to our schiref balcomy of fife & his deputis And to our louitis Dauid purwes massare Johne langlandis Dauid cammeron messingeris

our schireffis in that part coniunctlie & seueralie specialie constitut greting Foresamekle as It is humilie menyt & lamentabilly complenit to ws be the wyff barnis kyn & frendis of wmquhill Andro balcomy burges of our burgh of couper upone Dauid grundiston of kingask Johne bower & waltir feyt quhilkis witht thar complicis slew the said Andro besyd our said burgh in fyfe in lentryn wes ane ȝere & passis at thar largis quhar thai pleis & na Justice done on thaim in the wtir hereschip of the said wyff barnis kyn & frendis of the said wmquhill Andro gif sa be Our will is herefor & we charge ȝou straitly & commandis that incontinent thir our letteris sene ȝe pas serch & seik the saidis personis & thar complicis committaris of the said slauchtir ore art ore part tharof samony as the said kyn & frendis of the said wmquhill Andro makis faitht to ȝou wer art & part of the sammyn & gevis thar names to ȝou in bill And gif thai can be apprehendit that ȝe tak sicker souerte of thaim that is to say of Ilk gentilman landit wnder the pane of J^{c} lib Ilk gentilman wnlandit J hundretht merkis & Ilk ȝemman xl li that thai sal compere before our Justice the secund day of our nixt Justice aire of fife ore sonnare quhen & quhar It sal pleis our derrest consing our tutour the gouernore upone xv dais warning to wnderly our lawis for the said slauchtir And gif thai be fugitive ore refusis to fynd the said souerteis that ȝe charge thaim be oppin proclamacion at the mercat croce of our said burgh to cum & fynd the sammyn to ȝou withtin vj dais nixt eftir thai be chargeit be ȝou tharto wnder the pane of Rebellion & puttin of thaim to our horn the quhilk vj dais being runnyn & the said souerte noucht fundin that ȝe denunce thaim our Rebellis & put thaim to our horn & escheit all thar movable gudis to our wsse & Inbring the sammyn to ws eftir the form of our act of parliament The quhilk to do we committ to ȝou coniunctlie & seueralie our full power be thir our lettres Deliuering thaim be ȝou deulye execut & Indorsat agane to the berare gevin wnder our Signet At Edinburgh the xj day of december & of our Regne the nynt ȝere

[11 Dec. 1521]

Ex deliberacione dominorum consilii Chepmane

[1] as at mare lenth is contenit in the saidis lettres or precept apone the quhilkis baith the saidis parteis beand lachfully [summond] be the schireffis precepte direct tharupone the said m comperand be hir procuratouris a b c & the saidis a and c beand personaly present Thar richtis resonis & allegacionis red sene & wnderstandin & tharwith the schiref foirsaid baronis & assessouris beand weil & riplie avisit fand & deliuerit that the said m had lifrent or ful rycht etc of the saidis landis of c be the extincione of seising & possessione tharapone Judicialy producit And because the said a b c producit nor schew nocht na sufficient lettir of tak nore title of the saidis landis decernit & ordanit thame & Ilkane of thame de devoid & red the said landis with thar pertinentis of thame & thar gudis to be Josit & broukit be the said m etc eftir the forme & tenour of the saidis lettres & sesing & possessione producit & scheuin tharapone Extracta de libro actorum curiarum vicecomitatus de f [1] 82v

James be the grace of god king of scottis To our schiref of fyfe & his deputtis gretyng forsamekle as it is humilie menit to ws be our louittis the wyf & barnis kyn frendis of wmquhil andrew balcomy burges of our burght of couper that dauid grundistone the sone & aire of wmquhil thomas grundistone of kingask waltir fet his seruand Johne bour & thar complicis come apone the said andrew now laitlie quhar that he wes at his leiffull besynes within his awin malyng of the landis of bolgarne besid our said burght & cruellie slew hyme apone old fed & forthocht fellony in he contemptione of our autorite & lawis gif sabe Our wil is herefor & we charge 3ow straitlie & commandis that incontinent thir our lettres sene 3e pass serce & seke the saidis personis & thar complicis delaittit of the said slauchtir samony as the kyn or frendis of the said wmquhile andrew wil mak faitht wer art or parte tharof & gewis thar names to 3ow in bil & gyf thai cane be apprehendit that 3e tak sicker souerte of thaim that [is to] [2] say of Ilk

[1] This fragment begins at the top of the folio. It would appear as though the clerk had written it to practise this form of entry. [2] Folio damaged.

gentilmane landit wnder the pane of ane hundretht [ħ of Ilk gentil] [1] mane wnlandit ane hundretht merk Ilke ȝemmane xl ħ that thai sal com[pere before our Justice] [1] or his deputtis the thrid day of our nixt Justice aire of couper or sonare quhen & quhar it sal pleis ws or the lordis regandis of our realme apone xv dais warning to wnderly our lawis for the said slauchtir & gyf thai be fugitive or refusis to fynd the said souertye that ȝe charge thaim be oppine proclamatione at the merkat cross of the said burght of couper tocum & fynd the samin to ȝow within vj dais nixt eftir thai be chargit tharto wnder the pane of rebellione & putting of thaim to our horne the quhilk vj dais being past & the saidis souerteis nocht fundine that ȝe incontinent thareftir denunce thaim our rebilis & put thaim to our horne & eschete al thar moweable gudis to our wse eftir the forme of our actis of parliament deliuering thir our lettres be ȝow deulie execut & indorsat agane to the berrere gewyne wnder our signete at edingburght the xxvij day of merche & of our regne the vij ȝere etc

[27 Mar. 1520]

[1] Folio damaged.

NOTES

P. 1. *Patrick Lord Lindsay, Sir John Lindsay of Pitcruvie (the Master), Sheriffs of Fife.* Patrick, 4th Lord Lindsay of the Byres; Sir John Lindsay of Pitcruvie, his eldest son, died *vita patris* in 1525; John Lindsay, son of Sir John, became 5th Lord Lindsay of the Byres upon the death of Patrick Lord Lindsay in 1526 (*Scots Peerage*, v. 396-397).

Sir Andrew Lundy of Balgonie was sheriff of Fife in the reign of James iv. (*supra*, p. 9). He can be traced as sheriff as late as 19 April 1513 (*R.M.S.* ii. 3836), and must have held office for a considerable length of time (see *R.M.S.* ii. 2589, 2984, 3567; Fraser's *Wemyss*, ii. Nos. 77, 83; *Dunfermline*, No. 499). But Patrick Lord Lindsay was sheriff of Fife 26 April 1514, by which time Sir Andrew Lundy of Balgonie was dead and had been succeeded by James Lundy of Balgonie his son (*supra*, p. 68; cf. the sasine of 29 May 1514 in *E.R.* xiv. 552-553). Sir Andrew Lundy received an annuity of £5 from the burgh fermes of Crail in the account 6 August 1513–5 July 1514; but in the immediately following account the annuity was paid to his son (*E.R.* xiv. 59, 111). Apparently, therefore, Lundy died between August 1513 and April 1514 (though the service of 31 October 1520, *supra*, pp. 193-194, refers to a period of seven years and three months, which would put Lundy's death at end of July 1513), and was succeeded in the office of sheriff of Fife by Patrick Lord Lindsay of the Byres, though we have no record of the appointment.

In the head court of 8 January 1520/21 Patrick Lord Lindsay and Sir John Lindsay of Pitcruvie 'presentit In Jugement our Souerane lordis lettres of commissioun wnder the priue Seile of the gift & constitucioune newlingis of thaim togydder witht Johne lyndesay the sone & aperand aire to the said Johne maister & williame lyndesay of pyotstoun coniunctlie & seueralie in the office of schirefschip of the schirefdome of fife' (*supra*, p. 205). Possibly the letter is the one referred to about that date in *R.S.S.* i. 3117.

On 17 July 1525 Parliament ratified the gift made by the King, with the advice of the Governor, under the Privy Seal (30 May 1524) to Patrick Lord Lindsay of the Byres, Sir John Lindsay of Pitcruvie his son, and John Lindsay, son and heir of Sir John, of the office of sheriffship of Fife. (*A.P.S.* ii. 295*b*.)

This ratification probably arose out of an action raised by Patrick Lord Lindsay, his son, and grandson before the Lords of Council for reduction

of a gift to James Lundy of Balgonie under the Great Seal (date not stated) of the office of sheriff of Fife. On 14 July 1525 decree was granted in their favour on the ground that at the time of the gift to Lundy 'the said office was nocht vacand bot was and ȝit is in possessioune of the said Johnne Maister of Lindissay and his soun forsaid' in virtue of the charter of 30 May 1524. (*A.D.C.* xxxv. f. 92.)

P. 1. *Kynnescote.* For the different forms of this name see *Index of Places*, s.v. *Kinnesswood.* On folio 33*v* (*supra*, p. 90) the more modern spelling *Kynnestwod* occurs. The local pronunciation of Kinnesswood is still 'Kinascut.' This was observed by Liddall in his *Place Names of Fife and Kinross* (Edinburgh, 1896).

P. 3. *Special Service: Fernie.* The sasine in the *Libri Responsionum* includes '*cum terris nuncupatis le Constable Medow prope dictum burgum*' (*E.R.* xiv. 570), which may possibly supply the omission noted in the text. (See also the note printed *infra*, p. 295 : 73.)

James v.'s escape from Angus and the Douglases (1528) is said by Pitscottie to have been aided by 'the laird of Ferme, forester of the park of Falkland and chamberland of Fyfe' (*Chronicles*, ii. 331). M'Neill has reviewed the story there told and its subsequent versions (*E.R.* xv. Intro. li-lv), and is inclined to dismiss it as a legend, pointing out that the account of the chamberlain of Fife for August 1527 to July 1528 was rendered by Laurence Alexander (*E.R.* xv. lv, 391). But Sir Laurence Alexanderson (*Laurence Alexandri*) was only a depute to James Beaton, Archbishop of St. Andrews, the chamberlain of Fife, and the whole criticism rests upon the fact that Fernie did not hold that office. It is significant that 12 February 1527/28 a charter was granted under the Great Seal to Andrew Fernie confirming to him and his heirs the lands of Wester Fernie, the forest of Kilface, and the offices of forester of Falkland and constable of Cupar with the lands of Nuthill near Falkland and the 'constable meadow' near Cupar, united into a free barony of Wester Fernie (*R.M.S.* iii. 549). Apart from his mistake in assigning to Fernie the office of chamberlain of Fife, there is nothing to disprove Pitscottie's picturesque account.

P. 4. *chantour of Breichine.* See also *supra*, p. 9, where he appears as procurator for Isobel Meldrum. This might support an identification with Mr. William Meldrum who was *cantor* or *precentor* of Brechin about this time (cf. *Brechin*, ii. p. 167).

P. 5. *Cognition: Alexander Tarvit.* The gift to David Lermont of the ward of the lands and annual rents that pertained to the late John Tarvit of that Ilk, together with the relief and marriage of Alexander Tarvit his son and heir, is recorded under date 10 February 1509/10 (*R.S.S.* i. 2003).

That the heir should receive reasonable sustenance during ward and until he was of ' lel age ' was a principle well recognised in feudal law. In 1491 Parliament laid down that the heir should have a reasonable living given to him for his sustenance, after the quantity of the heritage, if he had no blenche or feu lands upon which to sustain himself, the sustenance to be provided ' alswele of the wardis that fallis in our souerane lordis handis As ony uthir baroun Spirituale or temporale.' (*A.P.S.* ii. 224, c. 6. Ratified in 1535, *ibid.*, ii. 344, c. 14.)

P. 5. *Archbishop of St. Andrews.* Andrew Forman. (See Dowden, *Bishops of Scotland*, 38-39.)

P. 6. *apud acta.* This expression, frequently occurring, simply means ' in the course of procedure.' Trayner states that it implies obedience to the orders judicially pronounced in open court in presence of the parties without further notice or summons being made. (*Latin Maxims and Phrases*, 1876, *sub voc.*) It seems also to indicate that a note of the order or summons has been made in the records of the court.

P. 6. *Marion Pitcairn* v. *John Moutrie of Markinch.* The decision in this action was the prelude to a long series of actions before the Lords of Council. They may be summarised :

(i) 7 March 1515/16. John Multrare *v.* Marion Petcarn. Multrare states that he holds the lands of Newton of Markinch in feuferme. Marion Petcarn ' sinisterly purchest ' letters directed to the sheriff of Fife to call the parties before him. He appeared and showed an exemption from the jurisdiction of the sheriff for certain reasonable causes, and *inter alia* that the said Marion and the sheriff's wife stood in second and third degrees of kin. Nevertheless the sheriff proceeded in the matter. Rolment of court produced. Lords of Council decree that the procedure was orderly and that the act of the sheriff court be put to due execution, etc. (*A.D.C.* xxvii. f. 219*r*.)

(ii) 16 January 1516/17. Marion Petcarn *v.* John Multrare of Seafield and John Multrare his son. She has a tack of the lands of Newton of Markinch pertaining to her because her husband (John Multrare, burgess of Dysart) was tenant thereof at the time of his death under the King's banner (at Flodden), and she is entitled to possession for three years by virtue of the ' generale act maid at Striueling ' in favour of the widows of those who died at Flodden. Nevertheless the defendants with ' wranguis vexatioun and trubling of hir in the peceable bruking ' of her lands have spuilȝied and withheld from her 20 stones of cane cheese, 2 stones of butter, etc. etc. Case continued. (*A.D.C.* xxviii. f. 97*v*.)

17 March 1516/17. Same case. Lords of Council decree defendants to be in the wrong and to desist and cease from troubling the said Marion, to restore the goods spuilȝied and to pay the damages caused. (*A.D.C.* xxix. f. 100*r*.)

19 March 1516/17. Same case. Amount of damages decided. (*A.D.C.* xxix. f. 111*v*.)

(iii) 3 March 1518/19. John Multrar of Markinch *v*. Margret (*Marion*) Petcarn. She has alleged that she has assedation of the lands of Newton of Markinch, and has purchased letters to keep her in possession thereof although the said lands pertain to him in heritage. The Lords of Council decree that the letters were orderly purchased and that effect be given to them. (*A.D.C.* xxxii. f. 103*v*.)

For the tack of three years granted to Marion Pitcairn ' absque introitu quia Johannes Multrar, ejus sponsus, decessit in campo,' see *E.R.* xiv. 498.

Apparently John Moutrie of Markinch (*alias* the laird of Seafield) was fond of a ' guid ganging plea.'

P. 8. *Special Service : Kinloch.* Sasine of the lands of Wester Cleish was given to James Sandilands in 1505 (*E.R.* xii. 718).

P. 9. *Bishop of Glasgow.* James Beaton. (See Dowden, *op. cit.* 337-343 ; *E.R.* xiv. Intro. lxxxv ff.) The correct designation would be ' archbishop,' since the see of Glasgow was made an archbishopric by a bull of Innocent VIII. dated 9 January 1491/2.

P. 9. *Andrew Lundy of Balgonie, sheriff of Fife.* (See the note printed *supra*, p. 283.)

P. 12. *John Scrimgeour of the Myres, macer.* In 1484 John Scrimgeour received a charter under the Great Seal granting to him and his heirs male the office of macer and sergeand of arms together with the lands of the Myres of Auchtermuchty. (*R.M.S.* ii. 1582.) His fee of £10 annually from ' le Myre de Uchtirmukty ' can be traced steadily throughout the *Exchequer Rolls*.

P. 12. *Kelle in angusia.* To distinguish it from Kellie in Fife. (Cf. similarly *A.P.S.* ii. 167*a*.)

P. 13. *And that day to haif the samyne strenth of the said heid court as this day.* That is, as if the summons had been made to that day. Another form is ' that day beand as this day in all thing but preiudice of ony party.' (Cf. Fraser's *Melvilles*, iii. p. 36.)

P. 13. At the foot of folio 4*v* there has been inserted a pencilled note ' Leaf apparently wanting here,' and at the head of folio 5*r* a note ' 18th May 1515.' But in the first entry on folio 5*r* the date *18 May* has been amended to *8 May*, which agrees with the date given by the sheriffs in their general continuation of all cases on folio 4*v*. The use of the phrase ' schireffis & deputis foirsayd ' on folio 5*r* seems to apply to the court of 14 April 1515, and that there is no record of a court held on 8 May is no proof of a missing leaf, since it is not uncommon to find a case continued to an assigned day on which ultimately no court was held. (Cf. *supra*, p. 91, where a case is continued to

2 March 1518, and pp. 121-122, where a case is continued to 26 January 1519, in neither of which instances were courts held on the assigned days.) When a case was continued to a day on which no court was held the action fell 'asleep.' (Cf. *L.A.R.* i. 181; *Justiciary Records*, Scot. Hist. Soc., i. 56.)

P. 14. *to be actit.* That is, to be registered in the court record. To ask 'act and instrument' means to ask for registration and also for a copy (instrument) of the record (rolment) of the court.

P. 16. *Action* re *teind sheaves of Dysart.* On 14 January 1515/16 various protestations in connection with this action were entered before the Lords of Council, and the sheriff was ordered to produce his process. On 9 February 1515/16 decree was given as follows: 'Anent our souerane lordis lettres purchest at the Instance of Mergreit lady sinclar That quhar thar Is ane cause depending in consistory court betuix hir and the persone of dysart anent the teynd schevis of the personage of disart for the quhilk the said persone callit hir befor the schireff of fiffe and hir procuratouris exceptit & said that the said actioune was depending in the consistory and tharfor the said schireff aucht nocht to knaw tharon and desyrit the sammyn to be Remittit/quhilk Johnne lindesay of petcruvy knyt the said schireff wald nocht admitt nor differ tharto bot maid him to proceid aganis the said margreit in the said cause And als anent the charge gevin to the said schireff to produce his proces led in the said mater that It may be sene & considerit be thame lyk as at mair lenth Is contenit in the saidis lettres. The said Johnne lindesay schireff foresaid being personaly present and the said Mergreit comperand be Maister Robert Calbraith hir procuratour Thar Richtis Resonis etc The Lordis of counsale decretis and deliueris that the proces led be the said schireff in the said mater Is lauchfully and ordourly led and procedit And tharfor ordanis the sammyn to [1] have effect in tyme to cum/and the lettres Rasit apoun the said processe to be put till dew execucioun in all punctis as efferis.' (*A.D.C.* xxvii. ff. 142*r*, 167*v*.)

Nevertheless in the parallel case of Scott *v.* Sinclair (pp. 17-19) the Lady Sinclair seems to have escaped through the general exemption granted to her upon her passing to Orkney and Shetland upon the King's service (*supra*, pp. 143, 145), this being the 'respect' referred to in the court of 29 April 1516 (p. 31), and although Scott again brought forward his action in 1518 (*supra*, p. 108), when it ran for several months, it finally drops out of the record, possibly having been settled out of court, possibly because Scott gave up a hopeless task.

P. 16. *bot he maid the aith of verite Juramentum calumpnie.* This is a confusion on the part of the clerk. The two oaths are quite distinct,

[1] *be put till dew execucioun in all punctis and that lettres be direct tharapoun as efferis* deleted here.

and that made here is the oath *de calumnia*. (See Bisset, *Rolment of Courtis*, i. 189-194; *A.D.C.* ii. lxv; *infra*, pp. 319-320.)

P. 19. *James Logan, sheriff of Lothian.* On pp. 36 and 37 he is more accurately designated 'schiref depute of Edinburgh.' He was James Logan of Craghouse (*R.M.S.* iii. 152, 255, 747) and held office as sheriff depute of Edinburgh certainly from 1504 to 1516 (*R.M.S.* ii. 3214, 3844; iii. 68; *A.P.S.* ii. 255*b*; *T.A.* v. 81). He was dead before 4 May 1528, when James Logan, son and heir of the late James Logan of Craghouse, received sasine of the lands of Cramond Regis (Calendar of Charters, Register House, No. 1020).

P. 19. *my lord of the Ilis.* The ancient line of Lords of the Isles became extinct in 1498. Any possible connection with John, 4th Lord Lyle seems to be ruled out by the fact that he was a minor in 1515 (*Scots Peerage*, v. 555-556). It would appear as though we must read 'my lord [bishop] of the Ilis.' But George Hepburn, bishop of the Isles 1511-1513, was killed at Flodden, and his successor does not appear to have been appointed for many years (Dowden, *Bishops*, 291). It is significant, however, that the Prior of St. Andrews and the Bishop of the Isles (who were both Hepburns and related to one another) were in 1512 curators to Adam, Earl of Bothwell (Dowden, *loc. cit.*). The earls of Bothwell were heritable sheriffs of Edinburgh, and James Logan, the depute, had probably met both the Prior and the Bishop in their capacity as curators. Parties to a dispute could always refer it to 'amicable compositors' or arbiters to be chosen by them (see *infra*, pp. 321-322), and possibly Logan suggested the two churchmen, who were accepted by the other side and by the clerk without thought that one of them was dead. This interpretation, though admittedly not without difficulties, is supported by an entry in the *Acta Dominorum Concilii*, to which Mr. Angus has called my attention, where 'James [Hepburn] postulat of Dunfermling' appears 'in the name of the executouris of my lord of ylis' (*A.D.C.* xxvi. f. 108*v*; 17 March 1513/14). The reference in this latter entry is clearly to the bishop.

P. 19. *my lord priour of Sanctandrois.* John Hepburn, 4th son of Patrick, 1st Lord Hailes. (See *Scots Peerage*, ii. 147.)

P. 21. *Special Service: Livingstone.* Sasine given 17 April 1516. (*E.R.* xiv. 583.)

P. 22. *Special Service: Heriot.* Sasine of the lands of Burnturk and Balmonth was given to *Alexander* Ramsay, 6 December 1513. (*E.R.* xiv. 532.)

P. 23. *with the laife of the poyntis of the brefe.* The Act of 1474 stated that the tutor appointed had to be the 'narrest agnet and of xxv ȝeiris of age fulfilling the laif of the poyntis of the breif.' (*A.P.S.* ii. 106, c. 6.) See also *infra*, pp. 341-342.

P. 23. *Special Service: Lindsay.* Sasine given 27 August 1516. (*E.R.* xiv. 586.)

P. 24. *band and oblist hir be the faith in hir body hir hand uphald.* Similarly cf. *supra*, pp. 56, 75, 91, and 'be the extencione of thar handis' (p. 46). See the note by the late Dr. Neilson in *A.D.C.* ii. lxiv-lxix. To his examples might be added 'be the ostensioun of ther rycht hand' (*Echt-Forbes Charters*, p. 97) and 'per exhibitionem et deliberationem manuum suarum' (*Peebles Records*, i. p. 41). On f. 60*r* (*supra*, p. 190) we find 'deponit the gret aitht upone ane croce.' The corporal or bodily oath, or the 'great oath,' had to be sworn on the gospel or on some sacred relic (cf. Ducange, s.v. *Jurare*). It was the oath taken upon admission to office (*supra*, p. 14), and can be found recorded as that taken by jurors (cf. 'the haly wangellis tuichit' in *Melrose*, No. 545, and 'capite sancto Marnani presente' in *Moray*, No. 203).

P. 27. *Special Service: Abercrombie.* The lands of Cameron were feued to John Abercrombie in 1511. (*E.R.* xiii. 619-620.)

P. 29. *requisiuit henricum sibald marum secum pergere apud Inner dovere ad namandum.* (Cf. *Reg. Maj.* iv. 24 (*A.P.S.* i. 636).)

P. 30. *ane grauatour of the officer of Sanctandrois.* Mr. Angus has called my attention to an entry 'diuersis grauatouris of the officiale of lowdiane' in *Act. Dom. Aud.* 182*b*. The 'grauatour' may be the more familiar 'aggravation' of the canon law, which was an ecclesiastical censure threatening excommunication after three admonitions used in vain. (Similarly the re-aggravation: cf. f. 73*r* (*supra*, p. 243), and see *N.E.D.* s.v.) But such an interpretation is not without its difficulties. In both the present case and that in the *Act. Dom. Aud.* (*loc. cit.*) the term seems to be used more in the sense of any accredited letter coming from an officer of the Church, and in the present case it could certainly not be the letter threatening excommunication. The derivation may be not from *ad-gravare* but from the middle-Latin form *grafare*, and *Ducange* (q.v.) gives *grafare* (to write), *grafarius* (a notary).

P. 30. *Bishop of Galloway.* David Arnot. (See Dowden, *op. cit.* 371-372.) On f. 12*v* (*supra*, p. 31) there is a reference to 'the hame cuming of the bischope of gallovay furth of Ingland.' For his embassy to England he was granted, 3 April 1516, a general protection and respite to include his kinsmen, friends and servants. (*R.S.S.* i. 2736.) Presumably Robert Arnot of Woodmill came under this protection.

P. 31. *Penultimo aprilis Rescripto.* That is, the court of 29 April *continued.* *Rescriptus* is usually employed at the head of the *verso* side of a folio to indicate that the entries still refer to the same court (cf. f. 42*v*, *supra*, p. 124). Similarly where the record of a court runs over

a number of pages the finding of the jury may begin '*Qui Rescripti Jurati dicunt . . .*' (cf. *supra*, p. 64).

P. 36. *did na wrang in the poynding and distrinzeing . . . for the birun malis & dewiteis.* A baron could poind in his own court and by his own authority for rents due from lands within his jurisdiction. Craig asserts that such distraint could only be employed for the three immediately preceding terms (*Jus Feudale*, I. x. 38 *in fine*; see also *B.P.* 398, cc. 9, 10), but in practice no such limitation appears to have prevailed (see the case in MS. Fife Sheriff Court Books, under date 8 October 1575). In cases where there were no natural fruits of the ground, the landlord had an hypothec of *invecta et illata* extending to utensils, implements, etc. (Erskine, *Institute* (1812), II. vi. 64). It may be that in this particular instance the tenant was claiming that the 'wakker scheris' (fuller's scissors ?) were immune from poinding (cf. *infra*, p. 329).

P. 37. *Logan* v. *Wardlaw.* After the protestation by James Logan on p. 38 this case drops out of the record. The following extract from the *A.D.C.*, however, throws a little further light on the action, and also shows the confusion of legal procedure of the time, especially that caused by the obtaining of letters by 'sinister information':

14 August 1516.—'Anent our souerane lordis lettres purchest at the Instance of James logane schiref deput of Edinburgh aganis Elizabeth brown & Andro wardlaw hir spous That quhar the said James has the landis of ottirstoune be Resone of tak & assedacioune & the landis of Kowcarny be Resone of nonentres & has broikit the sammyn peceabli/ quhill the said Elizabeth & Andro hir spous on force put the said James out of possessioune of the saidis landis of ottirstoune & Kowcarny & on force occupiit the sammyn And tharapone the said James menit him to the lordis of consell & optenit thar deliuerance in four sindry formis And als optenit our said souerane lordis lettres direct to the schireff of fiff & his deputis to tak cognitioun in the said mater of his possessione be vertu of the quhilk the said schireff tuk cognicioune & closit the sammyn And thareftir the saidis Elizabeth and Andro hir spous optenit our said souerane lordis lettres be sinister Informacioune direct to the said schireff of fiff Allegeand thaim to be in possessione of the saidis landis/chargeing him to tak cognicioune of thair possessione And als anent the charge gevin to the saidis Elizabeth & Andro hir spous to produce the saidis lettres befor the lordis of consell to ane certane day bypast to be sene & considerit be thaim gif thai be procedit of Justice or nocht lyk as at mair lenth Is contenit in the saidis lettres. The said Andro being personaly present & als comperand for the said Elizabeth his spous & the said James Logane comperand be Maister hew giffert his procuratour It was allegeit be the said Maister hew That the said mater was ȝit depending befor the said schireff of fiff & undecidyt & offerit him to preif the sammyn Tharfor the lordis assignis to the said James

the xxv day of August Instante with continuacione of dais to preif his allegeance sufficiently & ordanis him to haue lettres to summond sic witnes & probacioune as he will use for the preving of the sammyn. And in the mene tyme continewis the said actioun in the sammyn forme force & effect as It is now but preiudice of party And the partiis be thaim self & thar procuratouris ar warnit herof apud acta.' (*A.D.C.* xxviii. f. 22*v*.)

There appears to be no further reference to the case in the *A.D.C.*, and presumably it was settled out of court.

P. 40. *Special Service : Tarvit.* Sasine given 5 October 1516. (*E.R.* xiv. 586.)

P. 41. *was Replegiate be Johnne Seitoune baroune of lothreisk.* For a note on repledging see *infra* App. C. The mill of Orkie was part of the barony of Lathrisk (cf. *R.M.S.* ii. 2243).

P. 41. *Archbishop of St. Andrews.* Andrew Forman. (See Dowden, *Bishops of Scotland*, 38-40.)

P. 42. *the lady wemis.* On f. 17*v* (*supra*, p. 46) we see that she is Jonet Beaton, widow of Robert Livingstone of Wemyss, Knight, and that she is pursued along with Margaret Livingstone the daughter and heir. Sir Robert Livingstone was of Drumry (*R.M.S.* ii. 3229); the daughter married Sir James Hamilton of Finnart (*Scots Peerage*, iv. 361).

P. 42. *Special Service : Bonar.* A ' summons of error ' was subsequently raised against this service :

30 March 1517.—' Anent the summondis of Errour maid at the Instance of our souerane lord & Andro Balfour of baledmond Aganis Patrick lord lindesay of the byris Johnne lindesay of petcruivy kny^{t} schireffis of fiffe thomas forester of glatstoune & dauid sibbald of lethame thare deputis— And als aganis Andro Setoune of parbroith dauid berclay of cullerny Johnne setoune of lauthrisk dauid spens of wolmerstoune dauid balfour of Caraldstoune Alexander lochmalony of that Ilk Alexander sibbald of Rankelour Johnne Rankelour of that Ilk thomas barclay of Rynd dauid berclay of tulch Johnne setoune of balbirny thomas ballingall of Riggis Nicholl scrimgeour of lillok Johnne muncur of the month & dauid tullo of hilcarny uthirwais being apoune the seruing of ane breif of Inquest of our souerane lordis chapell Impetrat be williame bonar be the decese of umquhile James bonar his grantschir of the landis of baledmond with the pertinentis lyand within the schirefdome of fiffe That Is to say the said Andro Setoune and Remanent of the personis that past apoune the said Inquest for thare Iniust determinacioune & deliuering in the seruing of the said breif & making of the said Retour In the first because thai Retourit that the said umquhile James bonar grantschir to williame boner deit last vestit & saisit of the saidis landis of baledmond howbeit that lang befor his deceise the saidis landis war declarit be decreit of the

lordis of counsale to be in the handis of umquhile Alane kynnard of that Ilk barone of the half of the barony of nauchtane & sa the said James was destitut of the saidis landis be for his deceise mony ȝeris And als becaus thai Retourit that the saidis landis of baledmond ar haldin of the lord gray as baron of kynneff howbeit that nothir the lord gray at now Is nor ȝit Andro lord gray his fader had Interesse or saising of the saidis landis of baledmond nor ȝit the saidis landis ar of the barony of kynneff quhilk lyis in the schirefdome of kincardin bot of the barony of nauchtane within the schirefdome of fiffe/and diuers uthir causis lyk as at mair lenth Is contenit in the said summondis And als aganis the said williame boner for his Interesse . . . The lordis of counsale decretis & deliueris that the saidis Andro setoune of parbroith dauid berclay of Cullerny and the Remanent of the saidis personis that past apone the said Inqueist[1] except dauid spens of wolmerstoun[1] has manifestly & wilfully erritt in the Retowring & seruing of the said breif Because thai Retourit that the saidis landis of baledmond ar haldin of the lord gray as barone of kynneff howbeit that on verite nothir patrik lord gray at now Is nor ȝit Andro lord gray his fader had ony enteresse or saising of the saidis landis of baledmond nor the said landis ar nocht of the said barony of kynneff because the saidis landis of kynneff ar within the schirefdome of kincardin and the saidis landis of baledmond ar of the barony of nauchtyne quhilk lyis within the schirefdome of fiffe lyk as the charter producit for the said williame bonar befor the saidis lordis of the saidis landis of baledmond proportit & bur of the dait the last day of october the ȝere of god j^{m} iiij^{c} sexty and ane ȝere/the quhilk charter was schewin to the said Inqueist at the seruing of the said breif And als because thai Retourit that the saidis landis ar in the handis of the lord gray as barone of kynneff be the spaice of xx ȝeris howbeit It is notorly knawin that the saidis landis of baledmond ar in the handis of Andro balfour lyke as was clerly understandin to the saidis lordis And tharfor decernis the personis at past apon the said Inquest for thare manifest & wilfull errour to haue Incurrit the panis of temere Jurantium and ordanis thaim to be punist in thar personis and gudis tharfor according to the act of parliament that Is to say all thar movable gudis to be the Kingis eschaet & to be Inbrocht to his use and thar personis to be in our souerane lordis presone ȝere and day and ferrar enduring his will and lettres to be direct tharapone as efferis And assolȝeis the said dauid spens of wolmerstoune fra the said actioune & all cryme that may be Imput to him tharfor because It was clerly understandin to thaim that he was nocht apone the said Inqueist as the Rolment of the said schiref court subscriuit with the clerkis hand tharof schewin & producit befor the saidis lordis proportit & bur And tharfor ordanis the said clerk to be callit for his errour in the putting of him in the Retour & lettres [to] be direct tharapone.' (*A.D.C.* xxix. f. 172*r*.)

[1] Added in margin.

P. 46. *the Archibischoppis of Sanctandrois & glashgew.* Andrew Forman and James Beaton. (Dowden, *op. cit.*, 38-40, 337-343.)

P. 46. *Special Service: Ramsay.* Sasine given 31 October 1516. (*E.R.* xiv. 587-588.)

P. 49. *the Countis of Rothaes.* On ff. 39*v*, 40*r* (*supra*, pp. 113, 114) she appears as Jonet Balfour. She was the wife of William Leslie, 3rd Earl of Rothes. (See *Scots Peerage*, vii. 279.)

P. 52. *becom souerte to the schirrafe for hir selfe hir hand and gudis.* This was the common form of oath in lawburrows. (See the note by Dr. Neilson in *A.D.C.* ii. Intro. lxvi. Similarly cf. f. 21*v*—*supra*, p. 56.)

P. 53. *gudis of aireschipe.* The heir of a prelate, baron (usually interpreted as including freeholders) or burgess vest and seised in lands, houses or annual-rents at death, had a right to the best of certain movables known as *heirship movables* (airschip geir, aireschipe gudis, etc.). The earliest enactment is to be found in the Burgh Laws (*A.P.S.* i. 356, c. 116), and the practice was again defined in 1474 (*A.P.S.* ii. 107, c. 8). (See also *B.P.* 234 ff., and Erskine's *Institute*, III. viii. 17.)

On 12 December 1516 Walter Arnot, fiar of that ilk, tutor dative to Stephen Dudingston, brought an action before the Lords of Council against Annabel Abercrombie who by 'cinister informacioun' had purchased letters to the sheriff of Fife 'to caus hir be anserit of the said stevinis areschip gudis quhilk pertenis to the said walter be reson of his office.' The letters were suspended as 'unordourlie procedit and without cognicioun of the caus.' (*A.D.C.* xxviii. f. 65*r*.)

P. 53. *Special Service: Beaton.* Sasine was given 12 March 1516/17. (*E.R.* xiv. 591.)

P. 57. *Special Service: Anstruther.* Sasine was given 12 July 1517. (*E.R.* xiv. 595.)

P. 60. *Special Service: Balcanquhal.* According to the *Libri Responsionum* sasine had been given 2 March 1516/17 (*E.R.* xiv. 591); also, on 3 March 1516/17, in 'modifying' a sum for the competent living and sustentation of Alexander Balcanquhal during the time of his minority, the Lords of Council referred to a retour by Thomas Grundiston, sheriff-depute of Fife, bearing that the lands to which Alexander Balcanquhal was heir were worth fifty marks a year. (*A.D.C.* xxix. f. 52*r*.)

P. 61. *Special Service: Beaton.* Sasine was given 20 May 1517. (*E.R.* xiv. 593.)

P. 63. *the taxt that the schirref compellit hyme to pay.* Sandford (now St. Fort) seems to have lain within the barony of Naughton (cf. *R.S.S.* i. 1013; *R.M.S.* ii. 1508; iii. 848), but both Sandford-Hay and Sandford-Nairn were assessed separately for the purposes of the tax (see the tax-roll printed *infra*, App. G). [*contd.*]

The tax was apparently a ' taxt of speiris ' or *taxa lancearum*, a financial expedient usually employed for providing military forces for the borders (cf. *A.P.S.* ii. 45, c. 14). Thus, in July 1518, we find a reference to a taxation of the landed men of Forfarshire for the furnishing of spears for the borders ; the tax was collected by the sheriff, and assessment at ' half-a-spear ' was equivalent to £6. (*A.D.C.* xxxi. f. 149*r*.)

On 9 February 1516/17 Sir John Lindsay of Pitcruvie is stated as ' beand now Laitlie in our souerane lordis seruice Inbringand and makand compt of the taxacioun of the speris within the schirefdome of fiff ' (*A.D.C.* xxviii. f. 183*r*), and in the discharge account of the Treasurer there is a reference, under 13 March 1516/17, to letters sent to the sheriff of Fife, and to other sheriffs, ' for ingetting of the taxt ' (*T.A.* v. 114). The final amount paid in from Fife does not appear in the record, though there are statements of the sums received from other sheriffdoms. (*Ibid.* 109-110.)

This particular ' taxt of the speris ' was to be ' given to the ambassiatouris ' (*ibid.* 74-75), possibly for the expenses of Albany's own visit to France (8 June 1517), with which an embassy consisting of the Bishop of Dunkeld, Lord Glencairn and the Secretary (Panter) was made to coincide (13 May 1517). (See Lesley, *Historie*, Scot. Text Soc., ii. 167 ; Balfour's *Annals*, i. 246 ; *R.S.S.* i. 2900.)

In the appendix given below (App. G) certain notes are added on the method of assessment and collection.

It is to be noted that this tax, as also the taxes of 1552 and 1554/5 in the Linlithgow Sheriff Court Book, is made upon the authority of letters patent under the signet. I have been able to find no parliamentary authority for the imposition, and it would be interesting to know what check existed upon the levying of such taxations. On folios 77*r* and 79*v* (*supra*, pp. 259, 271-272) there are further references to the ' taxt ' and to the sheriff's ' rollis.' In the former reference it is stated that 5 June 1522 is the last day ' of the Inbringine of the haile taxt to the gouernour,' whilst the sums given in the latter reference do not agree with those in the ' taxt roll ' of 31 March 1517. This seems to indicate that these later references are to a tax other than that noted above, and in view of the frequent and almost annual references to ' taxations ' it is difficult to understand how abuse in their imposition and collection was prevented.

P. 64. *iuxta tenorem acti parliamenti.* Probably refers to the Act of 1474 (*A.P.S.* ii. 106, c. 6). (See also the principles affirmed in *A.P.S.* xii. Supp. 37*a*.)

P. 66. *Special Service : Paterson.* Sasine given 8 May 1517 (*E.R.* xiv. 593). (See also *T.A.* v. 61-62.)

P. 67. *had resauit the kingis lettres in the secund forme.* (See Green's *Encyclopædia of the Law of Scotland* and Watson's *Dictionary and Digest*

of the Law of Scotland (7th edn.), s.v. *Letters of Four Forms*; Kames *Historical Law Tracts*, vol. ii.)

Letters of Four Forms are referred to in an Act of 1525 (*A.P.S.* ii. 297, c. 6) and more fully in the Act of 1535 prescribing their use for persons lying 'under the horrible sentence of cursing' (*A.P.S.* ii. 342, c. 3). Ross holds that the procedure was derived from that of the writ of excommunication which, anterior to the final sentence, contained four requisitions. (*Lectures*, 1822, i. 266.)

P. 71. *for the singill & double availe of his mariage.* 'Single avail' was exacted if the heir married without the consent of his superior; 'double avail' if, the superior having offered a suitable match, the heir married some one else. (See Erskine, *Institute of the Law of Scotland*, II. v. 18, 21; Stair, *Institutions*, II. iv. 38-60; *D.V.S.* s.v. *Maritagium Hæredis*; Craig, *Jus Feudale*, II. xxi.)

David Lermont had a gift under the Privy Seal, 10 February 1509/10, of the ward of the lands and annualrents that pertained to the late John Tarvit, together with the relief and marriage of Alexander Tarvit his son. (*R.S.S.* i. 2003.)

The action initiated before the Lords of Council. 16 November 1515, David Lermont of Clatto pursued Alexander Tarvit the son and heir of umquhile John Tarvit of Hill Tarvit for the sum of 500 marks (Scots) for the single avail of his marriage and for a further 500 marks for the double avail of his marriage because the said Alexander had contracted marriage with Begis Clephane, daughter of John Clephane of Carslogie, without consent of the said David, who by gift of James IV. (see above) had the marriage of the said Alexander and the profits thereof. Case continued. (*A.D.C.* xxvii. f. 99*r*.)

17 January 1515/16. Case further continued. (*A.D.C.* xxvii. f. 144*v*.)

22 January 1516/17. Alexander Tarvit pursued John Clephane for the single and double avail of his marriage because the said John Clephane had promised to 'freith releif & keip scaithles' the said Alexander by an instrument under the sign and subscription of David Greigour, notary. The Lords of Council found that, if necessary, the single and double avail must be paid by John Clephane. (*A.D.C.* xxviii. f. 121*r*.)

23 March 1516/17. The Lords of Council decreed that since David Lermont had found a suitable match for Alexander Tarvit in Christian Auchinleck, daughter of John Auchinleck in Barry, the said Alexander must pay to Lermont 400 marks for the single avail of his marriage and a further 400 marks for the double avail. (*A.D.C.* xxix. f. 124*v*.)

Thus the sheriff calls John Clephane to hear his lands apprised for the raising of these 800 marks since he had 'relieved' Alexander Tarvit by the instrument noted above.

P. 73. *hew farnyc.* Elizabeth Lundy was the widow of William Fernie.

(See *supra*, pp. 3, 4, 116, 123.—On p. 4 she appears as Elizabeth ' Sibbald.')

23 July 1517. Hugh Fernie, the tutor, brought his action before the Lords of Council requiring Elizabeth Lundy and David Scott her spouse to show their authority (royal letters) for keeping Elizabeth Lundy in possession of the lands of ' Nuthyll ' until the following Whitsunday or until ' scho be lauchfully callit & ordourly put tharfra.' The defenders did not appear, and the Lords suspended the letters and their execution until such time as they were produced. (*A.D.C.* xxx. f. 110*r*.)

Presumably Fernie had to bring this action to prevent the letters being plead by the defenders before the sheriff; an example of the difficulties which arose through the issue of such letters thereby causing confliction between the central authority and the local courts.

P. 74. *testimoniele of the grite Sele.* That is, the Quarter Seal. (See Maitland Thomson, *Public Records of Scotland*, 75-76.)

P. 76. *desirit to be Replegiat.* For the right of replegiation enjoyed by the Abbey of Dunfermline see *R.M.S.* ii. 429; *Dunfermline*, No. 434. (See also *Dunfermline*, No. 587.)

P. 78. *my lord Archibischope of Sanctandrois commendatare of dunfermeling.* Andrew Forman, Archbishop of St. Andrews, had been given the Abbey of Dunfermline *in commendam* 13 November 1514. (Herkless and Hannay, *Archbishops of St. Andrews*, ii. 102-103.)

P. 78. *to heire his expensis taxt.* On taxation of expenses see *B.P.* 404; Mackenzie, *Observations*, 159, Act 64. Legal ' expenses ' have always been apt to be high. For the very considerable expenses incurred in the execution of a simple conveyance in 1522 see *A.D.C.* xxxiii. f. 71.

All ' expenses ' were paid by the losing side unless it were specifically directed otherwise.

P. 79. *vj cane foulis.* The word *can* seems to be connected with the Gaelic *cáin* = *law, tribute, fine* > Scots *cane*. It is generally interpreted to mean ' a duty in kind paid by a tenant to his overlord ' (Jamieson's *Dictionary*, s.v. *cane*). The true meaning would be ' a tax imposed by law or custom.' Stokes-Bezzenberger take it from **Kâsni-*, and a root *kâs*, ' *anweisen* '; whence *castigare*. It is the native word, whilst *cís*—' tribute '—is derived from L. *census*.

The word is used in various ways—a tax upon a district, a tax on produce (*e.g.* cheese), a customs duty (*e.g.* can of a ship), etc.

Similarly compare the ' gwestfa ' and the ' tunc hens ' of Wales (Palmer and Owen, *Ancient Tenures of Land in North Wales and the Marches*, 1910, pp. 133, 176), and the later ' reek-hens ' of Scotland.

The calculation of the value of the cane fowls in the text seems to be erroneous.

P. 80. *Reddendo inde annuatim ad specum sancti Seruani de disert capellano inibi celebranti*, etc. 'Dysart' is sometimes stated to be derived from the 'desert' (*desertum*) of St. Serf. There is a description of the cave of Dysart in *Sculptured Stones of Scotland* (Spalding Club), ii. xci. The markings may have disappeared through the wearing of the soft sandstone. According to the legend, read as the third lesson on St. Serf's Day (July 1st) in the *Aberdeen Breviary* (*Pars Estiva*, f. 15*v*), it was in the cave of Dysart that the devil discussed theology with the saint (see *Wyntoun*, v. xii. 5255-5342). [Wyntoun was Prior of the Monastery of St. Serf, Lochleven, in or about 1395.]

P. 82. *george Erle of Rothes.* That is, George Leslie, 4th Earl of Rothes. (*Scots Peerage*, vii. 281 ff.)

P. 86. *Special Service: Wemyss.* Sasine given at Edinburgh, 4 November 1517. (*E.R.* xiv. 601-602; see also *ibid.* 559.)

Retornata reformatur, etc. 'Anent our souerane lordis lettres purchest at the Instance of Adam Lindesay of douhill & Elizabeth aytoun wardatouris of the landis of pettincreif Aganis patrik wemis That quhar he Rasit breuis of our souerane lordis chapell upone the saidis landis of pettincreif as air of tailȝe And his clame the tyme of the seruing of the saidis breuis proportit & bur that the saidis landis had bene & war in our said souerane lordis handis be ane certane spaice than bypast be resone of ward as in the Retour maid tharapone at mair lenth is contenit as Is allegit And conform to his clame he was seruit & Retourit And thareftir the said Adam & Elizabeth gat the auctenty copy of the said Retour And thareftir foundit summondis of Errour for the Retreting of the said processe Nochtwithstanding the said patrik wemis be sinister informacioun hes purchest our said souerane lordis lettres direct to the schireff of fiffe & his deputis chargeing thame to mend the said Retour and quhar It was be Resone of ward to Reforme It be Resone of nonentres And tharfor the said patrik to produce the saidis lettres befor the saidis lordis to ane schort day to be sene and considerit be thame gif thai war procedit ordourly and of Justice or nocht . . . The lordis of counsale Decretis deliueris & decernis the lettres purchest be the said patrik wemis direct to [the] schireff of fiffe and his deputis that gif the baronis & personis that past apone the said Inqueist Retourit the saidis landis being in our souerane lordis handis be Resone of nonentres that the said schireff caus the sammyn to be Retourit sa & mend the Retour past ofbefor To be ordourly procedit and to haue effect in tyme to cum & to be put till execucioune in all punctis as efferis And lettres to be direct tharapoun gif neid be.' 14 March 1518/19 (*A.D.C.* xxxii. f. 124*v*).

P. 86. *Special Service: Ramsay.* Sasine given at Edinburgh, 5 November 1517. (*E.R.* xiv. 602.)

P. 87. *Special Service: Ramsay.* Sasine of the lands of Foxton given

at Edinburgh, 4 November 1517. (*E.R.* xiv. 602.) (See also the gift in *R.S.S.* i. 2819.)

P. 92. *in uberiori forma speculatoris.* See the note by the late Dr. Neilson in *A.D.C.* ii. Intro. liv-lv.

P. 92. *Special Service: Balfour.* Sasine given at Edinburgh, 26 February 1517/18. (*E.R.* xiv. 604.) (See also the gift in *R.S.S.* i. 2914.) For the registration of a marriage contract between Andrew Balfour and Jonet Bruce, daughter of Sir Alexander Bruce of Earlshall, see *A.D.C.* xxx. f. 150*r*.

P. 94. *Special Service: Dudingston.* Sasine given at Edinburgh, 5 June 1518. (*E.R.* xiv. 607.) (See also *R.S.S.* i. 2937.)

P. 96. *personalye apprehendit.* That is, personally *cited.* See the note by the late Sir Philip Hamilton-Grierson in Bisset's *Rolment of Courtis* (Scot. Text Soc.), iii. 125 :—136. 26.

P. 98. *had ane chapell of his aune regalite.* The rights granted to a regality, ecclesiastical or baronial, were often so full as to include a chancery (chapel) for the issue of brieves (*Kelso*, ii. No. 517 ; *Cambuskenneth*, No. 91), the right to try the four pleas of the Crown, which were denied to the sheriff (*R.M.S.* i. 390 ; ii. 523, 575), the right to hold justice and chamberlain ayrs (*R.M.S.* ii. 522, 575 ; *Reg. Hon. de Morton*, ii. Nos. 180, 182), and in certain cases full rights of admiralty (*A.P.S.* viii. 493*b* ; *S.H.R.* xx. 126-128). Unfortunately most of the charters granted to St. Andrews have been lost, but the right of repledging is referred to in *R.M.S.* ii. 1444.

P. 100. *Special Service: Lundy.* Sasine given at Edinburgh, 20 October 1518. (*E.R.* xiv. 611.)

lundin in campo bellico. Sir Thomas Lundy was killed at Flodden (cf. *A.D.C.* xxvii. f. 217*r*), and thus his heirs would be entitled to the special benefits laid down in the Act made ' at Twesilhauch in Northumbirland ' on 24 August 1513 whereby it was enacted that ' gif ony man beis slane or hurt to deid in the kingis army and ost be Inglismen or deis in his army enduring the tyme of his ost/his aieris sall haue his ward Releife & mariage of the king free dispensand witht his aige quhat ȝeild that euer he be of ' (*A.P.S.* ii. 278). This is the ' act of the feld ' referred to on f. 39*r* (*supra*, p. 111). The *Rentalia Domini Regis* show that the remission of entry-dues was made to the King's tenants as well as to his vassals (*E.R.* xiv. Appendix). In the present instance, however, the lands appear to have been in ward.

The principle was not a new one. In the account of the sheriff of Forfarshire, June 1412, there is a note of certain persons who were slain in the battle of Harlaw and to whose heirs the Governor (the Duke of Albany) had granted freedom to enter to their lands without ward,

marriage or non-entry dues (National Library MSS. 22.1.14, f. 162*v*; Sir Lewis Stewart's Collections—National Library MSS. 34.3.11, p. 16). This privilege was extended to the heirs of all persons who were killed at Harlaw fighting against the Lord of the Isles, and was made 'secundum quoddam statutum consilii generalis' (*Aberdeen*, i. 215).

A general extension of the principle was later made in 1522 (*A.P.S.* ii. 284*a*).

P. 105. *Elizabeth Gourlay* v. *George Wemyss and David Wemyss.* (See also p. 113.) On 6 March 1515/16 George Wemyss had brought an action before the Lords of Council against Elizabeth Gourlay, widow of James Wemyss, stating that he had received a tack of the lands of Michalstoune from David Wemyss of that Ilk, who was orderly entered thereto, but that Elizabeth Gourlay had purchased letters directed to the sheriff of Fife saying that she and her late husband, James Wemyss, had held the lands by reason of tack and claiming that she was entitled to remain on the lands for a further three years by virtue of the Act made in favour of the widows of those who fell at Flodden. The pursuer stated that she had no tack and that her husband 'duelt nocht apone the ground nor deit nocht witht the lard tharof in the said feild'; nevertheless neither he nor David Wemyss were called before the sheriff, who made a 'pretendit inhibition at the ground that na persoun suld intromett tharwith,' whilst later the said Elizabeth obtained other letters to take the said George's corns from him. The Lords of Council ordered letters to be sent to the sheriff of Fife and his deputes ordering them to call George Wemyss, David Wemyss, and Elizabeth Gourlay before them and take cognition if James Wemyss, the late husband of Elizabeth Gourlay, was in possession of the lands of Michalstoune at the time when he 'past witht our souerane lord in his army in Northumbirland' and if Elizabeth Gourlay was entitled to possession in terms of the general Act passed in favour of the widows of those who fell at Flodden, with a general injunction that they minister justice therein (*A.D.C.* xxvii. f. 218*r*). Apparently, despite the paucity of the present record, the decision was eventually in favour of George Wemyss and David Wemyss, for in December 1522 Elizabeth Gourlay and her (second) husband David Blair again brought an action (now against Master Thomas Wemyss, brother and heir of the late George Wemyss) for a refund of the profits of a third-part of the lands of Michalstoune for the one year after Whitsun 1514, upon the old claim that her husband died at Flodden possessed of the lands, but the Lords of Council, without citing any reasons influencing them, promptly dismissed the claim. (*A.D.C.* xxxiii. f. 67*r*.)

P. 109. *suld turne the lard of culuthie nore his aris to na preiudice in thar heretaigis & priuilegis of the said watter.* These privileges apparently included 'piscaria super aqua de Edyne ab ejus faucibus ad aquam de Motre prout mare fluit et refluit, cum cymba *lie ferriboit*, et devoria vocat.

ancorage navium et cymbarum infra bondas dicte aque applicantium, ac cum libertate piscandi cum cymbis *lie cobillis* et retibus infra eandem per limites predictos.' (Cf. *R.M.S.* iii. 2114.)

P. 110. *Special Service : Strang.* Cf. the entries in the *Libri Responsionum* in *E.R.* xiv. 568 ; xv. 603, 604.

P. 111. *act of the feld.* See the note *supra*, p. 298 : 100.

P. 115. *Special Service : Scrimgeour.* Sasine given at Edinburgh, 11 September 1518 (*E.R.* xiv. 610). For James Scrimgeour, Constable of Dundee, see *Peerage*, iii. 308.

P. 121. *marum et sergiandum constabularie de kingorne.* The constabularies of Kinghorn and Crail were originally administrative and jurisdictional units separate from the sheriffdom of Fife. (Cf. *E.R.* i. 112, 395, 499 ; ii. 45, etc.) The constabulary court of Kinghorn had a jurisdiction within the constabulary equivalent to that of a sheriff court, and suit of court was paid thereto from lands within the constabulary. (Cf. *R.M.S.* i. 415, 528 ; *Reg. Hon. de Morton*, ii. No. 91.) These constabularies, as jurisdictional units, were subsequently merged into the sheriffdom (see *infra*, p. 379), and although the office of constable of Kinghorn still existed at the time of this record (cf. his fee of £2 annually from the fermes of the burgh, *E.R.* xiv. *passim*) the greater portion of his powers had gone, his unit was an administrative one *within* the sheriffdom, and the mair of the constabulary was appointed in the sheriff court and was responsible ultimately to the sheriff.

P. 124. *my lord dene of dunkeld.* Probably the ' Master Williame meldrome archidene of dunkeld ' who appears on f. 34*r* (*supra*, p. 92).

P. 131. *commissar to the lard of balgony. . . . Replegiate the actione.* Balgonie was erected into a ' free barony ' (cf. *R.M.S.* ii. 3567) and therefore had a right of replegiation. It is to be noted, however, that the action was repledged ' all except the Spoilȝe contenit in the said precepte,' and apparently a baron court had no jurisdiction in spuilȝie, this forming one of the legal distinctions between a barony and a regality. (Cf. *Melrose*, No. 579 ; *A.D.C.* xvi. f. 109*v*. And see the caution found *supra*, p. 78. See also *infra*, App. C.)

P. 134. *the chartir of lithquoislandis.* The two charters referred to are printed in *R.S.S.* i. Nos. 2326 (10 November 1511) and 2280 (5 August 1511). See also the further charter granted to Thomas Ballingall, 21 January 1511/12 (*R.M.S.* ii. 3685).

P. 137. *sanct paulis werk.* On f. 52*v* (*supra*, p. 163) it is called ' sanct paulis werk in Edinburgh.' It is almost certainly the ' St. Mary's Hospital ' or ' Hospital of our Lady,' situated in Leith Wynd, founded by Thomas Spens, Bishop of Aberdeen, in 1479. Arnot says the name ' Paul's Work ' was given to it in 1619, but the name can be shown to

have existed much earlier (Arnot, *History of Edinburgh*, 1779, pp. 247-248; but see *T.A.* i. Intro. lxxxvii *n.*, and cf. the reference to 'sanct paulis hospitale besid Edinburgh' in 1492 in *A.D.C.* i. 235*b*). The present entry indicates that it was connected with Torphichen, and in 1495 Sir William Knollis, preceptor of Torphichen, claimed before the Lords of Council the patronage of 'our lady chapell in sanct paulis hospitale' (*A.D.C.* i. 405*a*). Apparently Uthrogie and Ballomill were Temple lands at this time. The privileges of those dwelling on Temple lands were confirmed by many charters. The privileges included exemption from the ordinary courts and the right of being repledged to bailie courts of the Lord of Torphichen (cf. the full charter of privileges in *Aberdeen*, ii. 266-267). This privilege of replegiation is clearly referred to on f. 52*v* (*supra*, p. 163), and an interesting statement with regard to it is made in the account of the sheriff of Forfar for 1359 (*E.R.* i. 592). Torphichen thus acted as the *caput* for a regality having lands and houses in practically every shire and burgh of Scotland. The courts, to which cases were repledged, were not necessarily held at Torphichen, but could be held on the lands or in the houses by bailies specially deputed thereto. In the burghs crosses were frequently put on the houses to mark them as part of the regality; they seem to have enjoyed a right of sanctuary and were commonly known as 'houses of refuge.' Much heartburning was caused in the burghs through these privileges (cf. *Peebles Records*, i. 229, where a replegiation is refused), but the privileges enjoyed by those dwelling on the lands or in the houses were not finally lost until the Abolition of Heritable Jurisdictions Act of 1747.

P. 138. *James wischert of pittarrow Justice clerk.* He was both Clerk of Justiciary and King's Advocate (see the note *infra*, p. 308). He married Elizabeth Lermont, whom he predeceased, and this connection with the Lermonts probably accounts for his appearance here. (See *R.S.S.* i. 3320.)

P. 140. *Special Service: Abercrombie.* Sasine of the one half of the lands of Balcormo was given at Edinburgh, 6 June 1519. (*E.R.* xiv. 622-623.)

P. 140. *Special Service: Wallangis* (Wallinsche). Sasine given at Edinburgh, 5 July 1519. (*E.R.* xiv. 623.)

P. 142. *Privilege of Lindores.* Presumably the privilege claimed is that of replegiation. Unfortunately the charter of 7 November 1510 erecting Lindores into a regality has not been preserved. (But see *R.S.S.* i. 2149, 2150; *R.M.S.* iii. 12; Laing, *Lindores Abbey and its Burgh of Newburgh* (Edinburgh, 1876), Appendix xii.)

P. 143. *margaret lady sinclere . . . now laitly passit to the Ilis of orknay & schetland.* She was the widow of Henry, 3rd Lord Sinclair (*Peerage*, vii. 571-572), who was created Master of Artillery in 1511 (*R.S.S.* i. 2221) and who 'obiit in campo de Northumbreland sub vexillo domini

regis' (*E.R.* xiv. 32). Henry, Lord Sinclair, had a tack of lands in Orkney and Shetland (*R.M.S.* ii. 1842-1844, 2583; *R.S.S.* i. 681), and was succeeded in his tack by his wife, the accounts being rendered by her until her death. She was evidently a woman of considerable personality. She also held the office of custumar of Dysart (*E.R.* xiv. and xv. *passim*), and possibly it was in this connection that the action was brought against her for spuilzie of the teind fruits of the church of Dysart.

P. 143. *the gouernour*. That is, John, Duke of Albany (see *Peerage*, i. 154; *E.R.* xiv. Intro. lxvi ff.). The general council held 26 November 1513 agreed that Albany should be received to help the realm of Scotland and give service to the young king. (*A.P.S.* ii. 282*a*.)

P. 146. *Margaret Sinclair* v. *Alison Sandilands*. In September 1515 we find Walter M'Culloch and Margaret Sinclair his spouse bringing a similar action before the Lords of Council against 'Elene' Sandilands, widow of Alexander Boswell of Balmuto and now wife of David Forbes younger of Rires, William Wemyss, David Brown and Laurence Wallace, tenants of Easter Balglelly. Margaret Sinclair had been awarded, in a previous action, a right to her terce and conjunctfee of the barony of Glassmount, of which Balglelly (*i.e.* Boglillie) was taken to be the third part, but the defenders had deforced the sheriff in that part when recourse had been made to an apprising. The movable goods of the defenders were declared by the Lords of Council to be escheat and their persons to be imprisoned. (See *A.D.C.* xxvii. f. 64*v*.)

P. 158. *de domino glammis*. John Lyon, 6th Lord Glamis. (See *Scots Peerage*, viii. 278.)

P. 166. *Special Service: Rankeilour*. Sasine given at Edinburgh, 12 April 1520. (*E.R.* xiv. 629.)

P. 170. *Special Service: Sibbald*. Sasine given at Edinburgh, 21 May 1520. (*E.R.* xiv. 631.)

P. 171. *abbot of balmerynoch*. (Cf. also p. 172—'ane venerable fader in god Robert abbot of balmerynoch.') Robert Forrester (or Forster), abbot 1511-1559. (See Campbell's *History of Balmerino and its Abbey*, pp. 223 ff.)

P. 172. *confirmacioun of the sammyn chartir wnder the greit Seile*. (See *R.M.S.* ii. 3081.)

P. 172. *the actis & statutis of parliament berand that it wes & Is lesum to all prelotis barronis ore frehaldaris to set thar landis in few . . . sua It be noucht in diminicioun of thar Rentale*. The reference is to the Act of 1503/4 (*A.P.S.* ii. 244, c. 31; 253, c. 37). (See also the note *infra*, p. 303:183.)

P. 175. *Ex deliberacione dominorum consilii*. See the remarks in Stair, *Institutions*, iv. iii. 4, 32.

P. 175. *Maister Robert Foremane prothonotore appostolat & commendatour of pettinweme.* Andrew Forman, protonotary apostolic and commendator of Pittenweem (also commendator of Dryburgh and Cottingham in England, Bishop of Moray 1501-1514, Archbishop of St. Andrews 1514), died 11 March 1520/21 (Law's MS., University Library, Edinburgh. Note kindly supplied by Mr. Angus, correcting Dowden, *Bishops*, 39-40). Robert Forman, Dean of Glasgow (see *supra*, pp. 265, 268), brother to Andrew (cf. Spottiswoode, *History*, i. 209), must have succeeded him as commendator of Pittenweem. Andrew Forman was made a protonotary apostolic by Innocent VIII. (Dowden, *op. cit.* 165), but I have been unable to trace the conferment of the honour upon Robert Forman. The title 'protonotary apostolic,' originally given to a member of the college of twelve (formerly seven) prelates whose function was to register the papal acts, etc., soon became a title of honour conferred somewhat loosely on pleaders in the court of Rome, on papal envoys and others concerned with the more legal side of the papal *curia*.

P. 181. *And als layd furtht in the ferd day in wytsonowk eftir the form & tenour of act of parliament tharupone maid.* This refers to the Act of 1469, which laid down that in order to avoid on Sundays and other 'solempnit days' the disturbances and conflicts then common at removings the removing should not be carried out until the third day after Whitsunday, *i.e.* the 'ferd day in wytsonowk.' (*A.P.S.* ii. 95, c. 10.) (See *infra*, pp. 327-328.)

P. 183. *Robert Moncrieff* v. *John Beaton of Creich.* (See also pp. 197-199, 276-278.) An Act of Parliament of 1457/8 had laid down that assedation in feuferme was to be encouraged and that the King should 'gif exempill' by setting his own proper lands in feu (*A.P.S.* ii. 49, c. 15). This Act probably gave a legal status to a holding which can be traced considerably earlier (cf. *E.R.* vi. Intro. lxvii-lxviii; xiii. Intro. cxiii ff.). In 1503/4 Parliament declared further that the King could set his proper lands, both annexed and unannexed, in feuferme to any persons he pleased, so long as no diminution in the rental was caused thereby, and that barons and freeholders could do so also (*A.P.S.* ii. 244, cc. 30, 31; 253, cc. 36, 37. See also the pleading *supra*, p. 172). The conversion of tacks into feus became common (cf. *E.R.* xiii. Intro. cxviii ff.), and in Fife in the period 1517-1522 the practice of setting lands in feu can be seen to have progressed steadily (*E.R.* xiv. xxxv, 494-505). In some instances the change was made compulsory by the King's officers (*E.R.* xiv. 495, where tenants are charged to take up their feus under pain of loss), whilst in others the relief from services formerly rendered as tenants was probably made an inducement to the change (*E.R.* xiii. Intro. cxviii-cxix; xiv. 7, 161, 171, 246, 318, 402). The gain to the Exchequer by the insistence upon 'no diminution of rental' must have been considerable if it can be judged by the charter of feuferme to Henry

Stewart, in which the money feu duty was practically half as much again as the old rent (*E.R.* xiv. 145).

The present case provides a curious instance of an action between a feuar and a tacksman of the same lands. A feu of the lands of Urquhart was given to John Beaton of Creich by the 'lordis commissionaris and settaris of the Kingis landis' on 10 April 1520 (*E.R.* xiv. 503). But the lands had been held by George Moncrieff and Robert Moncrieff his son on a tack given in January 1516/17 (*E.R.* xiv. 496-497), and when Beaton proceeded to occupy the lands Robert Moncrieff and his mother (George Moncrieff being deceased) purchased letters directed to the sheriff of Fife charging him to 'tak cougnicione gif the saidis frow Robert & the said wmquhill george muncrefe wer in possessione of the said tak eftir the terme of witsonday last bypassit And wer noucht lauchfully warnit . . . to remufe etc.' (*supra*, p. 277). The cognition was taken before a somewhat thin jury on 10 November 1520 (*supra*, pp. 198-199). Beaton did not appear, and the jury found that since the Moncrieffs had not been warned to remove before the last Whitsunday therefore they should have peaceful possession until Whitsunday 1521. Eleven days later (21 November 1520) George Moncrieff was given a tack of the lands of Urquhart for three years (*E.R.* xiv. 500). The question, however, was not yet settled. On 7 January 1521/22 Moncrieff brought a further action against Beaton (who was presumably remaining in 'violent possession' and who is here called 'Beaton of Creif'), this time before the commissioners appointed for setting the King's lands in feu. Moncrieff's case rested on his tack which had still terms to run: Beaton's on his assedation in feuferme and his entry to the lands by the stewart-depute of Fife. The commissioners found in favour of Beaton, giving as their reason that the lands were set to him in feu before Moncrieff obtained his tack (*E.R.* xiv. 505-506). The decision seems natural, but undoubtedly some engineering had taken place in the initial assedation to Beaton before the old tack granted to the deceased George Moncrieff had fully run its course.

Beaton obtained a charter of the lands of Urquhart in feuferme on 12 May 1524 (*R.M.S.* iii. 263; *E.R.* xv. 112 *n.*), confirmed in Parliament 25 February 1524/5 (*A.P.S.* ii. 287*a*, 291*a*; see also *E.R.* xv. 117, 224).

The lands of Urquhart were in the earldom of Fife (*i.e.* the King's lands) and not within the sheriffdom. But Beaton of Creich was the King's stewart of Fife, and could not therefore be judge in his own cause (*supra*, p. 277). He was consequently a defender to the cognition before the sheriff, who otherwise would not have been judge competent to the case.

P. 190. *Lawburrows: Kincaid.* The action Kincaid *v.* Kinninmonth seems to have aroused much ill-feeling on both sides, and despite the lawburrows obtained by Kincaid there is a significant entry in the *Register of the Privy Seal*, under date 23 October 1523, whereby remission was

granted to Mr. James Kinninmonth for the slaughter of Alexander Kincaid! (*R.S.S.* i. 3257.)

P. 191. *ane lettir of contimax.* (See *N.E.D.* s.v. *contumax.*) A letter of contumax was a petition by one of the parties to a case that the other party was or had done something in contempt of the court (Green's *Encyclopædia of the Law of Scotland*, s.v. *Contempt of Court, Contumacy*). In this case the petition was undoubtedly that Kincaid and his wife were excommunicate. (See the following note.)

P. 195-196. *hed na persone to persew thar said actioune because thai wer wnder proces of cursing.* An excommunicate had no legal *persona* before the civil courts. The Act of 1443 laid down that persons under process of cursing were not to be heard or answered in the law of judgment of fee or heritage or other causes until they had obtained absolution. (*A.P.S.* ii. 33, c. 1. See also *B.P.* 289, c. 1.) In this case ' ane absolucione ' was produced by the procurator at the next court (*supra*, p. 202).

P. 198. *producit our Souerane lordis lettres in the fyrst and secund formes.* See the letter printed *supra*, pp. 276-278. For a note on ' letters of four forms ' see *supra*, p. 294 : 67.

P. 200. *gat na coppy of thar summondis wythtin xv dais as the act of parliament proportis.* The reference may be to *Reg. Maj.* i. c. 5 (*A.P.S.* i. 598-599).

P. 200. *aucht noucht to ansuere as thane because the libell contenit twa punctis of summondis.* Presumably relying on *Ass. Reg. Will.* c. 31 (*A.P.S.* i. 380).

P. 201. *contenit in the kingis maieste . . . that the lard may put hand in his landis of subtennentrye in default of mailis & dewiteis awing to him & as ourlord tharof.* (See the note printed *supra*, p. 290 : 36.) I have been unable to trace such an enactment in the *Regiam Majestatem*. Skene includes in his edition a statute of Robert III. (c. 12) that ' it is statute generallie be the King, that na man sall take ane poynd, without the Kings officiars, or the Lords officiars of the land : bot within his awne dominions, for his fermis, or proper debts ' (cf. *A.P.S.* i. 576*b*). (See also *Leg. Quat. Burg.* c. 53 (*A.P.S.* i. 343).)

P. 205. *our Souerane lordis lettres of commissioun wnder the priue Seile of the gift & constitucioune newlingis . . . in the office of schirefschip of the schirefdome of fife.* (See the note printed *supra*, p. 283.)

P. 214. *Special Service: Lindsay.* Andrew Balfour received sasine of the lands of Mountquhanie 26 February 1517/18 (*E.R.* xiv. 604). (See also the retour of January 1517/18 (*supra*, p. 92).)

P. 215. *wnder the panys of putting of the saidis personis to our Souerane lordis horne.* Horning was an early method of enforcing the decrees of the civil courts. A letter of 26 March 1392 proclaimed certain male-

factors ' *ad cornu Regis* ' (*A.P.S.* i. 579), whilst the *Statutes of Robert III.* refer to persons ' at the horne ' and ' at the Kyngis horne ' (*A.P.S.* i. 570*a*, 574*a*). Probably a horn similar to a hunting horn was used, and in 1438 the sheriffs were ordered to ' blaw out ' on ' spoulsheouris ' (*A.P.S.* ii. 32*a*). Early in the seventeenth century the officer executing the horning is said to ' blowe three severall tymes a little horne ' (*S.H.R.* xix. 268). According to Skene horning soon became a formality and little else. In general, see Maitland Thomson, *Public Records of Scotland*, 45-50, and Livingstone, *Guide to the Public Records of Scotland*, 140-143.

P. 223. *Special Service : Knollis.* The lands of Ballinbla were apparently held in feuferme by Michael Balfour and Mr. William Knollis for a feu-duty of £8 (cf. *E.R.* xiv. 15, 168, 180, etc.). In his account 1522-24 the Treasurer accounts for £4, 10s. ' in completam solutionem compositionis carte confirmationis super carta alienationis Magistri Willelmi Knollis, rectoris de Kynnettillis facta Andree Ferny de eodem et Isabelle Petcarne ejus sponse in conjuncta infeodatione super totis et integris dimedietatibus terrarum de Ballinbla cum certis toftis et croftis, jacentibus infra burgum de Faulkland et vicecomitatum de Fiff ' (*T.A.* v. 176-177). ' Ballinbla ' or ' Baublay ' is now Balmblae.

P. 225. *Special Service : Crichton of Cranston Riddell.* For the lands of Cluny see the precept of sasine and the charter noted in *Hist. MSS. Comm.*, 4th Rep., 498, Nos. 53, 54. See also *ibid.* 497, Nos. 48, 49, and the sasine in *E.R.* xv. 592.

P. 233. *in our adiornale.* The word *adjournal* frequently stands by itself as synonymous with *register*, though the usual and later term was *books of adjournal*. Probably the name was derived from a record of the cases in which a certain period of time was assigned, as in a case of slaughter, for the one party to ' assith ' the other, or, as here, for surety to be found. Such cases stood *adjourned* for the period assigned. Later the name seems to have been commonly given to the records of the justice ayrs.

P. 237. *ane confirmacione of our said Souerane lord wnder his gret Seile.* (See *R.M.S.* ii. 1930.)

P. 237. *Special Service : Wemyss.* Sasine given at Edinburgh, 18 April 1522 (*E.R.* xv. 596).

P. 243. *wes depending befor him in his consistorie.* The consistorial courts attracted a considerable volume of civil litigation, especially small debt cases, which could be said to arise upon a covenant or oath (cf. Riddell, *Peerage and Consistorial Law*, i. 241 ; Innes, *Scotch Legal Antiquities*, 238-239). Naturally such a jurisdiction not infrequently involved controversy with the sheriff courts (cf. *supra*, Intro. p. xxvi, *note* 5). The decisions of the consistorial courts were enforced by excommunication

or ' cursing ' (for *ane lettre of reaggrauacione* see the note printed *supra* p. 289 : 30), but the process was the subject of such frequent abuse and was used for such small affairs that it soon became almost generally disregarded (cf. Knox's *Works*, edit. Laing, i. 38-39 ; *A.P.S.* ii. 342).

P. 249. *And failzeing of his movable gudis that ȝhe apprisse his landis eftir the forme of our act of parliament.* The reference is probably to the Act of 1469 (*A.P.S.* ii. 96, c. 12).

P. 253. *Special Service : Wood of Largo.* Sasine given at Edinburgh, 27 May 1522 (*E.R.* xv. 597). For the peculiar *reddendo* see *R.M.S.* ii. 3880 ; *May*, Intro. p. xlii.

P. 253. *Special Service : Spens.* Sasine given at Edinburgh, 4 June 1522 (*E.R.* xv. 599).

P. 258. *Special Service : Gardyne.* Sasine given at Edinburgh, 3 June 1522 (*E.R.* xv. 599).

P. 262. *lousyt thar pleuchis in tym of thar laubouris in contrare the statutis of the Realme.* The reference is presumably to the Act of 1503/4 (*A.P.S.* ii. 246, c. 50 ; 254, c. 45). (See also *infra*, p. 329.)

P. 269. *producit ane lettre of continuacione.* This letter is entered in the court book on f. 78*r* (*supra*, p. 265).

P. 270. *Non obstante sede parliamenti.* For vacance during the time of Parliament and the necessity of obtaining dispensation see *supra*, Intro. p. xxiii. There is record of a *sederunt* of Parliament 24 July 1522 (*A.P.S.* ii. 284*a*).

P. 273. *thai hef appeilyt tharfra to ȝou as Juges ordinar for remeid eftir the lawes & consuetud of our Realme.* In the *Regiam Majestatem* and the *Quoniam Attachiamenta* we find traces of a legal pyramid whereby appeal could be made from the baron court to the sheriff court and from the sheriff court to the justiciar (*A.P.S.* i. 627, c. 17 ; 649, c. 9), and such a pyramid was reaffirmed by the Act of 1503/4 (*A.P.S.* ii. 246, c. 46 ; 254, c. 41). Appeal could also be made to the King and Council, and the procedure ordered in the present case is similar to that which was laid down in the Act of 1487 for appeal to the Lords of Council in cases of ' wrangwis and Inordinat proceding ' (*A.P.S.* ii. 177, c. 10). Hamilton-Grierson has called attention to a case of appeal for ' remeid of law ' from baron court to sheriff court, and from sheriff court to council, as early as 1385 (Bisset's *Rolment of Courtis*, iii. 85-86 ; see also *ibid.* iii. 84-98). For appeal from sheriff court to the justiciar, see *Moray*, No. 164.

P. 274. *And warne our aduocate tharto for our Interes.* That is, to hold a watching brief for the Crown, of whom the lands were held. The editors of vol. xiv. of the *Exchequer Rolls* point out that the introduction of the King's Advocate (similar to the French *Procureur du Roi*) was in part

due to the growing importance of the feudal and fiscal rights of the Crown (*E.R.* xiv. Intro. cxvii). The King's Advocate at this time was James Wishart of Pittarrow (see the note *supra*, p. 301 : 138), who received an annual fee of £40 for the office (*T.A.* v. 82, 125, 159, 199 ; *E.R.* xiv. 403, 461).

P. 282. *the lordis regandis of our realme.* Prior to his departure for France, 8 June 1517, Albany appointed the Archbishops of St. Andrews and Glasgow, the Earls of Angus, Huntly, Arran, and Argyle, and Monsieur de la Bastie to act as vice-regents in his absence (*A.P.S.* ii. 395*a*). De la Bastie was murdered by the Humes some three months later. There are references to the ' Lords Regents and Council ' in *E.R.* xiv. 310, 350, 351, 352, 617.

APPENDIX A

THE PROCEDURE OF THE COURT[1]

THE opening of the court was marked by its 'fencing' or constitution, and by the calling of the suits which was an integral part of the same ceremony.[2] In an earlier period this ceremony included a definite demarcation or 'fencing' of the bounds of the assembly as well as a proclamation of the legality of the court and an announcement of the court peace[3]; but in the sixteenth century the procedure was limited to a formal constitution of the court, so formal as to be noted only by the phrase *curia affirmata* in the record.[4] The ceremony probably found its origin in the fencing of a field for battle—the earliest form of trial[5]—and it is significant that the early fencings of judicial assemblies follow in their proclamations and procedure all those rules so strictly observed in the holding of a 'trial by combat.'[6]

A court once fenced was an assembly competent to proceed to justice civil or criminal.[7] Thereafter it was customary for the clerk to read the 'rolment' of the preceding court so that

[1] For a fuller description and criticism of legal procedure in the sixteenth century, principally, however, of later date than the present record, the reader is referred to the edition of Habakkuk Bisset's *Rolment of Courtis* by the late Sir Philip Hamilton-Grierson (Scot. Text Soc., 1920, 1922, 1926).

[2] *Supra*, Intro. p. lxxxv.

[3] In 1380 the court of Alexander Stewart, lord of Badenoch, held '*apud stantes lapides de Ester Kyngucy in Badenach*,' was fenced, and the Bishop of Moray, who appeared to protest against the proceedings of the court, did so '*stans extra curiam*' (*Moray*, No. 159). The idea of a real fencing is preserved in the use of such phrases as 'the court fensyt about' (*Peebles Records*, i. 145, 148, 156, etc.).

[4] See the article by Hamilton-Grierson in *S.H.R.* xxi. 54-62.

[5] See the account of the battle of Vin-heath in *Egil's Saga* (Trans. in Anderson, *Early Sources of Scottish History*, i. 414-415).

[6] Cf. the rules laid down in Burchard, *Die Hegung der deutschen Gerichte*, pp. 155-190, with those for the trial by combat in *A.P.S.* i. 378, c. 22, and *Spalding Club Misc.* ii. 383-390.

[7] *Infra*, App. H.

the 'continued' cases might be taken first whenever such cases were ready to be heard.[1]

I. Civil Procedure.

In early times all civil proceedings were initiated by the King's brieve or letter issued from chancery and directed to the sheriff, charging him to decide the question at issue by a jury of upright and faithful men.[2] These brieves were purchased by the party pursuer, and were framed to cover almost every class of litigation.[3] No exception could be raised against them provided they were drawn up in due form and contained no alteration or erasure[4]; exception could be raised only against the sheriff and the officers and members of the court,[5] against the execution of the brieve or against the points contained within it.[6] The initial record of any case accordingly runs 'as at mare lenth is contenit in oure Souerane lordis lettres,'[7] or 'as at mare lenth Is contenit in our souerane lordis lettres Impetrat be the said James,'[8] or 'The quhilk day A. B. producit in Jugement & schew our souerane lordis lettres direct to the schiref & his deputtis chargeing thaim ore ony ane of thaim to etc.'[9]

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[1] Skene's *Forme and Maner of Baron Courts*, c. 1; *infra* App. I. In the present record the continued cases are generally, but not always, taken first.

[2] Thus, 'producit our souerane lordis lettres in Jugement requiring and chargeing the schiref foirsaid to tak cognicione & knawlege be ane Inquest etc' (*supra*, p. 5). See Bisset, *Rolment of Courtis*, iii. 40-44. We do not know how early this form of procedure upon brieve originated. The 'brieve' in *L.C.* No. 32 was almost certainly a charter. At a later date than the present record the brieve was superseded by a summons, issued in the name of the sheriff, which was sufficient to initiate proceedings. This later form of procedure may be said to have received legal sanction in 1540, when the sheriffs were ordered to 'sett thare court peremptourlie upoune xv dais Ande direct thare preceptis tharupoune etc' (*A.P.S.* ii. 358, c. 7), but there are indications even in the present record that the sheriffs were not averse to relying upon their own authority from time to time.

[3] See the volume of transcripts of brieves from the Ayr and Bute MSS. in H.M. Register House, Edinburgh.

[4] *A.P.S.* ii. 17, c. 3. By the Act of 1491 it was laid down that brieves should follow 'the forme of the breues of the chancellary usit in auld tymes of before,' and that innovations were to render a brieve null and void (*A.P.S.* ii. 224, c. 5). In England, on the other hand, a certain power of varying the stereotyped form of the brieve had been made permissible as early as 1285 (*Statute of Westminster II.* in *Statutes of the Realm*, i. 83, c. 24).

[5] *Supra*, pp. 97, 204, 212, 238. [6] Cf. Fraser's *Lennox Book*, ii. No. 72.

[7] *Supra*, p. 16. [8] *Supra*, p. 17. [9] *Supra*, p. 190.

Following the issue of the brieve and its presentation by the party pursuer, it was the duty of the sheriff to 'direct and pass a precept of summons' to the person cited as defender in the case. This precept of summons was a separate document by itself, and was issued by the sheriff upon the authority of the brieve. In 1466 it was laid down that summons must allow twenty-one clear days of warning,[1] though later, in 1504, this period was reduced to one of fifteen days in cases of 'recent spuilȝe.'[2] The summons could be made either personally or at the dwelling-place of the defender. In personal summons the sheriff's officer had to deliver personally to the defender a copy of the summons before at least two witnesses,[3] and a later Act of Parliament laid down that summons at the dwelling-place was only to be made when personal summons had proved impossible.[4] Judging by the present record, personal summons was frequently made in court.[5] Summons at the dwelling-place had likewise to be executed before two witnesses, and had to be at the place where the defender made his daily residence with his wife and household.[6] The summons had to set forth the name and office of the judge, the names of the pursuer and defender, the *res gestae*, and the day, time and place of the court[7]; it had to be duly endorsed and sealed by the officer

[1] *A.P.S.* ii. 85, c. 7. For earlier regulations with regard to summons see *Aberdeen*, i. 153.

[2] *A.P.S.* ii. 242, c. 9; 250, c. 9. See the case of *Kincaid* v. *Kinninmonth* (*supra*, pp. 200, 202). It is to be noted, however, that summons was made only 'upon xv dais' in the cognition of the lands of Balcaskie (*supra*, p. 268).

[3] Cf. *Reg. Maj.* i. c. 5 (*A.P.S.* i. 598). In the Act of 1430 it was laid down that 'the summoner shall summond and make his rehearsal in court either by tongue or by writ, as he choose . . . so that he has sufficient witness . . . which shall swear in court that they bystood saw and heard and for witness were taken where the summoner made the summons' (*A.P.S.* ii. 17, c. 2). In this connection there is an interesting writ of 1439 in which 'we the forsaide bystude, saw and onherde & for witness wes tane, quhen that John off Erwyne & Will Bernardson swor on the hirdman stein befor our lorde the Erle off Orknay & the gentiless off the cuntre, that thai bystude, saw and onherde and for witness wes tane quhen etc.' (Calendar of Charters, Register House, No. 301.) If the summons was not executed before witnesses, exception might be raised against the subsequent proceedings (cf. *A.D.C.* x. f. 94*v*; Bisset, *Rolment of Courtis*, i. 294, c. 14).

[4] *A.P.S.* ii. 359, c. 10 (1539).

[5] Cf. *supra*, pp. 10, 73, 81, 96, 99, 121, 136, etc.

[6] *Supra*, p. 28. Cf. Bisset, *op. cit.* i. 137, c. 3; *Jus Feudale*, II. ix. 6.

[7] *B.P.* 303, c. 2; Bisset, *op. cit.* i. 133, c. 2. It is this that differentiates the summons from the indictment, for in indictment no cause is given (cf. *A.P.S.* i. 380, c. 30).

executing it [1]; and apparently the defender could not be made to plead until he had received his copy.[2] Exception could be raised against a summons executed on a Sunday or other holy day,[3] or executed within feriat time.[4]

In the case of non-pleadable brieves, such as the brieve of inquest, in which there was no definite party defender, no precept of summons was issued, but the brieve was proclaimed, published, and executed at the market cross of the head burgh of the shire at the market time of day.[5] The proclamation had to be 'upon fifteen days,' and the precept ordering the proclamation had, like the precept of summons, to be sealed with the sheriff's seal or signet of office.[6]

When the court day came round, if the defender failed to appear he was condemned in the expenses of the pursuer and the unlaw of the court [7]; if absent on a second summons, generally now of process 'to heir and se probatione led and deduced,' or 'to here the productione of certane witnes,' he was again condemned in the expenses of the pursuer and the unlaw of court,[8] whilst the third summons was made 'with intimation that whether he came or not the judge would proceed as law will in the cause' [9]; finally if, despite this third summons, he was still absent after having been called thrice [10] he was condemned in expenses and unlaw as before and the judge proceeded to do justice in the case.[11] For sheer contumacy the defender's lands and goods could be forfeited into the King's hands or, if he had no lands and movables, he could be outlawed and put to the horn.[12]

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[1] Cf. *A.P.S.* ii. 95, c. 8.

[2] *Supra*, pp. 149, 255. This was natural, so that he might take consideration 'quharapone he suld ansuere' (*supra*, p. 149). It would appear, however, that the defender had to demand his copy at the first execution of the summons (*supra*, p. 170).

[3] *D.V.S.* s.v. *Marus;* Bisset, *op cit.* 294, c. 14.

[4] *Supra*, p. 170.

[5] *A.P.S.* ii. 245, c. 35; 253, c. 40.

[6] Cf. *A.D.C.* x. ff. 217*v*, 218*r*.

[7] *Supra*, pp. 24, 38, 39, etc.

[8] *Supra*, pp. 39, 228.

[9] This is the summons 'with intimacioune as efferit' (*supra*, p. 6).

[10] Presumably at the tolbooth stair or window. (Cf. *supra*, pp. 151, 199.)

[11] *Supra*, pp. 6-7.

[12] See *A.P.S.* ii. 37, c. 18. The procedure there outlined seems to have applied, with slight variations, to the sheriff court. The triple citation was a well-known feature of Roman Law and of Canon Law. A fuller examination is given by Hamilton-Grierson in Bisset's *Rolment of Courtis*, iii. 53-61. On p. 177 *supra* we find a defender 'oft tymes summond & callit that is to say

On the other hand, if, on the assigned court day, the defender appeared but the pursuer was absent, then the defender could make protestation that he should not be compelled to answer further in the case until he had been paid his lawful expenses and had been summoned anew by a fresh precept.[1] Usually such protestation was granted and the pursuer lost 'instance.'[2]

If both parties failed to appear on the assigned day both could be fined.[3]

Where either the pursuer or the defender was sick and so unable to travel to court, an *essoin* (or excuse) *de malo lecti* might be allowed provided the priest (or, later, the minister) of the parish or 'other famous witness' appeared with two witnesses and testified to that effect. In such cases the action was further continued, or an officer was sent to take the deposition of the party on oath.[4]

When both parties appeared the defender was entitled to demand inspection of the libel, as also inspection of any title in writing upon which it might be founded. That is to say, the pursuer had to state his case before the defender was under necessity to reply.[5] No defence, however, appears to have

to the fyrst secund thrid & now as to the ferd court' and failing to appear the judge proceeding to do justice in the case. Similar entries have been noted by Hamilton-Grierson in the Dumfries Sheriff Court Book of 1537-38 and in the Linlithgow Sheriff Court Book of 1541-61. (Bisset, *op. cit.* iii. 59.) It may be doubted, however, whether the procedure was strictly followed, especially at the date of our record.

[1] *A.P.S.* ii. 227, c. 18; Bisset, *op. cit.* i. 165; Erskine's *Institute*, IV. i. 7. Cf. the numerous protestations *supra*, pp. 2, 6, 72, 133, etc.

[2] In one case in the present record we find a defender appearing and making protestation for his expenses in that he had been summoned to the court and not called, whilst later in the same court the same defender is fined for absence. This is difficult to explain unless we can assume that the defender somewhat rashly left the court after his protestation and before making certain that his case would not be called later or the pursuer later appear. Even this assumption, however, does not explain the acceptance by the clerk of the initial protestation. (See *supra*, pp. 37, 38.)

[3] *Supra*, p. 75.

[4] *B.P.* 344, c. 9. (Cf. *L.A.R.* i. 315.) There are frequent entries in the Justiciary Records as 'Thomas quheilhous in fogo probatur Infirmus per curatum suum et duos testes plegio seipso' (Justice Ayr Transcripts, Register House). Other *essoins* for non-appearance which were vouched for and entered in the court record were those *de ultra mare* and *de servicio Regis*. The system of *essoins* was undoubtedly much abused (cf. *A.P.S.* i. 473, c. 26), and in 1430 special regulations were laid down governing their use (*A.P.S.* ii. 18, c. 4).

[5] Cf. *A.P.S.* i. 471, cc. 18, 19.

been produced at this first court, but a day was assigned to the defender for his defences, reply, and any exceptions he might wish to raise.[1] If the defender had no defence or reply a day was assigned for the 'publicacioune of certane witnes' on behalf of the pursuer,[2] or, if the pursuer were prepared beforehand, such publication or other proof could apparently be taken on the same court day.[3] Sometimes, for the convenience of the court, or of the parties, or for other reasons, the case was called only to be 'continued' to another court day to which both parties were warned *apud acta*.[4] Occasionally such a continuation was made in the hope that the parties might come to an agreement out of court. The case was then continued 'in hoipe of concord' or '*sub spe concordie*.'[5] This was akin to the English 'love-day,' a time given until the next session of the court in the hope that the parties would come to terms.[6] But if with the next court no agreement had been reached, the case came once more under the ordinary rules of procedure.[7] Continuation might also take the form of an adjournment as, for example, for the production of a warrand, but again if the warrand was not forthcoming on the assigned day the case proceeded along the usual channels.[8] Sometimes when a case

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[1] Usually a minimum period of fifteen days was allowed between the two courts, but an examination of the present record shows that the periods varied widely and followed no fixed rule.

[2] *Supra*, p. 10. [3] *Supra*, pp. 16-17.

[4] Thus, '*continuatur ex partium consensu*' (*supra*, pp. 2, 8, etc.) or 'all actionis & summondis of party to this court wer . . . continuit to the heid court nixt eftir pask for debilite of court but preiudice of party' (*supra*, pp. 11, 37, etc.). Most frequently no reason is given for the continuation (*supra*, pp. 9, 10, 34, 42, etc.). In one instance (*supra*, p. 208) we find the pursuer making protestation that the continuation of the case by the sheriff should not give the defender a right to his expenses for his appearance on that day. It would be natural to expect that when a case was continued by the sheriff to another day that day should be accepted as the one to which the summons had been made (*supra*, pp. 13, 192-193, and Notes, p. 286 : 13).

[5] *Supra*, pp. 8, 10, 11, 30, etc. In one instance we find an action so continued 'be suplicacione of my lord Archibischop of Sanctandrois' (*supra*, p. 41).

[6] Maitland, *Select Pleas in Manorial Courts* (Selden Soc.), 117; Maitland and Baildon, *The Court Baron* (Selden Soc.), 8, 20, 88. In some instances continuation *sub spe concordie* was conjoined with submission of the case to arbitration or 'compromise.' (Cf. *supra*, pp. 19, 46, 260, and see *infra*, pp. 321-322.)

[7] Cf. *supra*, pp. 192-193, 217.

[8] A further continuation might perhaps be granted, but if so it was to a court day 'as terme peremptour but ony langer dilay or excusacione' (cf. *supra*, p. 9).

was continued to an assigned day no court was held on that day. In such circumstances the case 'fell asleep,' and could only be 'wakened' by a new precept and a new summons.[1]

Either party could be represented by a procurator, and throughout the action appearance could be made through the procurator, or personally, or by both personal appearance and the attendance of the procurator.[2] But at his first appearance, or at the next assigned court day, the procurator had to produce his mandate authorising him to appear and represent the party.[3] Failure to produce this mandate resulted in fine.[4] The mandate, or 'letters of procuratory,' bound the party to 'stand at and abide' all things done by his procurator, and no protest against the action of the procurator could later be made.[5] By an early Act the sheriff was ordered to provide procurators for poor litigants,[6] but the Act appears to have been abortive.

At the day assigned for the defender's reply he had first of all to state any exceptions he might wish to raise. The exceptions raised were usually of three kinds: against the sheriff that he was not judge competent[7] or that he was partial,[8] against the pursuer that he had no legal *persona*,[9] or against the summons or the libel that it was invalid.[10] If exception were raised against the sheriff it had to be raised by the de-

[1] See *supra*, Notes, pp. 286-287 : 13.

[2] *B.P.* 297-298.

[3] Cf. *supra*, pp. 49, 156, or 'comperand be dauid spens of wilmerstoune his procuratour with sufficient pouere of procuratory wnder the said henryis Sele present Red & admittit in Jugement' (p. 120). This was a salutary ruling, and prevented any odd individual presenting himself as procurator when either pursuer or defender had failed to appear. It also prevented any subsequent denial of the procurator's authority to proceed. (Cf. *supra*, pp. 239, 266.)

[4] We find fines of £10 for such failure in the later Fife records (MS. Sheriff Court Books of Fife, Cupar-Fife, under date 12 April 1564, 4 October 1564).

[5] For letters of procuratory see *Kelso*, ii. No. 528; *L.A.R.* i. 108-109. A few entries of procurators are registered in the present record (cf. *supra*, pp. 10, 55, 123, 134-135, 142, 179-180, 182), whilst it is worthy of note that the procurators who were appointed or who appeared were usually churchmen.

[6] *A.P.S.* ii. 8, c. 24.

[7] That is, that the case was outside his jurisdiction. Bisset, *Rolment of Courtis*, i. 174, cc. 6, 8; *L.A.R.* i. 130.

[8] Bisset, *op. cit.* i. 174, c. 7. Cf. *Quon. Attach.* c. 12 (*A.P.S.* i. 650), and see *supra*, p. 188.

[9] *E.g.* that he was a rebel and at the horn, or that he was excommunicate. (Cf. Bisset, *op. cit.* i. 175, c. 11; *B.P.* 289-290; *supra*, pp. 195-196, 202, 209.)

[10] *Supra*, pp. 44, 189, 200.

fender as his first exception [1]; moreover, if the defender instead of making an 'exception declinatour' against the sheriff required him to 'purge himself of partiality' in the case, and the sheriff complied, the defender was thereby understood to have admitted and approved the sheriff as his judge.[2] All exceptions had to be verified immediately and were dealt with by interlocutors.[3] Thus the stage known as 'litiscontestation' was reached at which both parties accepted the judge and court [4] and proof of the libel was made.[5] It was the court day to which parties were summoned '*ad probandum hinc inde*' and '*ad perdendum vel lucrandum*.' [6] Should, however, the exceptions and the interlocutors thereon have fallen in the defender's favour, the case proceeded no further. That is to say, defence preceded proof of the case, and proof of the libel was made only when the exceptions raised by the defender had been disposed of. On the other hand, the defender might deny the libel *simpliciter*, and in such instances the case proceeded to proof immediately.[7]

Proof might be either by writings or by witnesses.[8] Of proof by writings it is sufficient here to say that failure to produce writings meant failure of proof.

Witnesses were cited to appear by a precept issued in the name of the sheriff,[9] and for failure to appear rendered them-

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[1] Cf. *supra*, p. 188. [2] Bisset, *op. cit.* i. 173, c. 5. Cf. *supra*, p. 202.

[3] *Supra*, pp. 202-203. No exception could be raised after consent to a continuation, which was taken as an acceptance of judge and court (cf. *supra*, p. 112). Apparently, however, reservation of exceptions could be made at the time of continuation, as 'Is be the schiref foirsaid continuit . . . with consent of party but preiudice of ony of thame saiffand & reserwand to thame al Just excepcionis & priuilegis of law,' or 'Nochtwithstanding all excepcionis & priuilegis quhatsumeuir contrare the Juge membris of courte proces past & to pas in the said actioune Reseruat etc.' (*supra*, pp. 105, 114, 118). In one instance we find such a reservation even after the depositions of witnesses have been taken and closed (*supra*, p. 151).

[4] See *B.P.* 342, c. 1. Cf. *supra*, p. 181.

[5] I have purposely omitted reference to 'peremptour exceptions' (see Bisset, *op. cit.* i. 181-183) of which proof was made and which were really a 'libel' for the defence. (Cf. *supra*, pp. 59-60.)

[6] *Supra*, pp. 36, 46. [7] Cf. *supra*, p. 314, *notes* 2 and 3 and relevant text.

[8] For the various rulings as to the nature of the proof see *B.P.* 363 ff.

[9] *Supra*, p. 99. Certain of the entries in the present record seem to indicate that the precept summoning the defender and the precept summoning the witnesses were identical (cf. *supra*, p. 11, and see Stair, *Institutions*, IV. xliii. 12).

selves liable to fine.[1] There is evidence that witnesses were not infrequently summoned from outside the shire,[2] and although we find exceptions raised against such witnesses,[3] even against witnesses from stewartries and regalities within the shire,[4] such exceptions do not appear to have prevailed. If a witness were sick in bed, and so unable to travel to court, and this was testified by the priest or minister of the parish or 'other famous witness,' the sheriff could send his clerk or other officer to take the evidence of the witness on oath.[5] The opposing side were entitled to know the names of the witnesses who were to be called,[6] presumably so that exceptions, where relevant, might be raised against them.[7] Women could not be admitted as witnesses,[8] and in cases of doubt as to the admission of a witness the sheriff might hold over his decision, '*pro suspenso ad advisandum*,' until the next diet.[9]

It is clear that in certain actions the witnesses had to be men of some standing.[10] Thus, in an action of cognition before the sheriff of Aberdeen in 1574, it was objected against a witness that he had 'nothir tak nor steiding nochttheless the said Ronnald grantit be wertew of his aytht that he haid tuentie merkis wortht of geir in respect thairof the Shreff admittit

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[1] *Supra*, pp. 164-165, 228, 231. The actual amount of the fine seems to have been fixed at the discretion of the sheriff, but it was usually 40s., that is, the same as the fine for absent suitors and jurors (*supra*, Intro. pp. lxxxii, xcv-xcvi; *L.A.R.* i. 146). There seems to have been a system of a fine of 40s. for the first absence, then a 'double unlaw' of £4 for a second absence, and a maximum fine of £10 for further absences (cf. *L.A.R.* i. 123). Sometimes a fine of £10 is named as a threat in urgent cases. To raise the fine poinding and apprising could be employed.

[2] Cf. *L.A.R.* i. 311, where a testimonial under the hand of the Common Clerk of Dundee was produced in the sheriff court of Aberdeen accounting for the failure to cite certain witnesses 'in respect of the commoun plag of pestilence regnand within the Southe partis of Scotland.'

[3] MS. Fife Sheriff Court Book, Nov. 1575-Aug. 1576, f. 3*v*.

[4] MS. Fife Sheriff Court Book, April 1575-Oct. 1575, f. 108*v*.

[5] *Supra*, p. 231. Cf. *L.A.R.* i. 315; *B.P.* 374, c. 14.

[6] *Supra*, p. 125.

[7] Cf. *supra*, p. 230; *L.A.R.* i. 257; *B.P.* 377, c. 34 (2). Exceptions could be raised on such grounds as nonage, interest, partiality, enmity, etc. For those who could not be witnesses to fact, see *Frag. Coll.* c. 18. (*A.P.S.* i. 744.)

[8] *Jus Feudale*, III. vii. 26 *in fine*.

[9] *L.A.R.* i. 260-264.

[10] Probably the early law contemplated that a witness had to be worth the 'King's unlaw' in case of perjury, or that only the word of a man who had something to lose was worthy of acceptance.

him,'[1] and in the same action mention is made of witnesses handing in depositions as to their ages and property qualifications.[2] A witness was understood to be actually received and admitted when he was lawfully sworn in judgment in presence of the party (or his procurator), against whom he was appearing, or, in the absence of the party, if the party had been lawfully summoned to hear the witness produced and received.[3] If the party were absent it was apparently usual to call him in public at the tolbooth door, asking if he had any exceptions to raise against the witnesses who had appeared, and presumably if he appeared at a later diet he could not then raise exception to the depositions.[4]

The witness's oath, as given by Balfour, is almost identical with the jury's oath. The witness had to swear that he would speak truly, concealing nothing either for love or for hatred, and that his knowledge was derived either through his own personal sight or hearing, or though creditable report handed down from his forbears.[5] Hearsay evidence, however, appears to have been quite common[6] despite such oath and despite the ruling that 'ane witness deponand that he heard that quhilk he deponis of ony uther man, sould not have faith, because he sould not depone *de alieno, sed de proprio auditu.*'[7] The oath of the witness was taken as a 'great oath.'[8]

In proof by witnesses two at least were requisite.[9] When the witnesses had appeared and the action was 'continued,' their depositions were sometimes taken and 'closed' until at

[1] *L.A.R.* i. 262.

[2] *Ibid.* i. 263. The whole of this case reads as though the 'witnesses' were performing the functions of a jury, and it is significant that in 1587 a somewhat similar standing to that demanded for these witnesses was laid down by Act of Parliament for the jury in cognitions (*A.P.S.* iii. 445-446). Hamilton-Grierson has cited a case, which was regarded as of great importance, in which each witness was required to be not only '*omni exceptione major*,' but worth a thousand marks 'in land and geir.' (Bisset, *Rolment of Courtis*, iii. 82, citing *A.P.S.* iv. 317.)

[3] Bisset, *op. cit.* i. 199, c. 7. [4] *Supra*, pp. 230, 232, 241.

[5] *B.P.* 373, c. 3. Compare the oath of the jury, *supra*, Intro. p. xcii. It would be natural to find the oaths of the jury and of the witnesses almost identical, in view of the original status of the jury as partly witnesses partly judges. (*Supra*, Intro. p. lxxxvii.) Similarly the fine for absence. (*Supra*, p. 317, *note* 1.)

[6] *Supra*, p. 231; cf. *L.A.R.* i. 57, 65, 106. [7] *B.P.* 381.

[8] *Supra*, p. 242. For a note on the 'great oath' see Bisset, *op. cit.* iii. 161.

[9] *B.P.* 373, c. 4. The old saying was that 'one man's tale is but half a tale.'

a later diet they were 'published,'[1] whilst similarly in the present record we find a witness's evidence taken and 'kepit close' to a certain day because he had to sail overseas.[2] Sometimes, however, the continuation of the action meant that the witnesses had again to appear in court at the next diet,[3] and in such cases the witnesses could apparently make protestation for payment of their lawful expenses before the second appearance.[4] The payment of 'costs' to witnesses, however, is only noted in the records on very rare occasions.[5]

After the publication of the witness' depositions decree might be given on the same day [6] or a day might be assigned therefor.[7]

During the course of the proceedings points might be referred by one party to the oath of the other. These oaths were of three kinds—the oath *de calumnia*, the oath of verity, and the oath *in litem*. They had to be given personally in court,[8] though by agreement the oath of a procurator might be taken if he had a special mandate.[9]

The *oath de calumnia*. *Calumnia* meant literally the bringing of a vexatious action,[10] and the oath *de calumnia* was the

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[1] *Supra*, pp. 46, 51.

[2] *Supra*, p. 164. Prior to the Act of 1686 the parties were not allowed to see the depositions of the witnesses. Each witness was heard only before the sheriff and his officers (deposition taken), and his deposition sealed with the sheriff's seal (deposition closed). The deposition was opened when the case was considered by the sheriff before decree (deposition published), and after decree it was again sealed by the sheriff, never to be re-opened thereafter. (See Stair, *Institutions*, IV. ii. 16; IV. xliii. 14.) The 'closing' of the depositions of certain witnesses did not preclude the receiving of other witnesses at a later diet (cf. *A.D.C.* i. 9*a*, 10*b*), but after 'publication' no other witnesses could be adduced. (Bisset, *op. cit.* iii. 83, *n.* 5.)

[3] *Supra*, pp. 11, 218.

[4] *Supra*, p. 186; and cf. p. 77.

[5] Cf. *A.D.C.* i. 10*b*, 14*a*, 29*b*; *Act. Dom. Aud.* 161. But I have found no payments to witnesses in any of the sheriff court records which I have examined.

[6] *Supra*, pp. 69-71.

[7] *Supra*, pp. 67-68.

[8] In cases where it was sufficiently proved by a minister or other 'famous witness' that through sickness, great age, or other infirmity a litigant could not travel to court to give the oath personally, then the sheriff could send his clerk or other officer of court to the residence of the litigant and there receive his oath. (*B.P.* 361, c. 16.) For an oath *de calumnia* so taken see MS. Fife Sheriff Court Book, 1564-1565, f. 128*r*; for an oath of verity so taken see *L.A.R.* i. 207.

[9] But compare Morison's *Dictionary*, 9374, *Lady Lovat* v. *Lord Lovat* (1577).

[10] The verb *calumnior* appears to be used in this sense in *L.C.* No. 166; for *calumnia* see *L.C.* No. 65; see also *L.C.* No. 73, where *calumnia* appears to mean an action of any kind and freedom therefrom to be freedom from being cited

oath prescribed by James I. in 1430 that 'or he be herde in the cause' the party or his procurator must swear 'he trowis the cause is gude and lele.'[1] As a safeguard against malicious actions this oath could accordingly be demanded by either side. A pursuer or a defender who refused to take the oath immediately lost the action.[2]

The *oath of verity* or *decisorium litis* had the full force and effect of probation.[3] It acted as a final proof, and the sheriff gave decree upon the statement made. If the pursuer referred his case to the oath of the defender, he renounced thereby all other proof, and stood to 'win or tyne' (*ad lucrandum vel perdendum*) by the sworn answer which was made.[4] Similarly the defender might put his whole case to the pursuer's oath.[5] If the defender failed to appear to give his oath, or refused to give it when asked by the pursuer, the oath was taken by the pursuer himself.[6] The alternative of the oath did not lie with the sheriff but only with the parties, and the sheriff could not refer the case to the oath of the defender if the pursuer offered to prove his libel by witnesses or by writ.[7] In cases where the pursuer or the defender pled 'just ignorance,' the oath could not be insisted upon, and formal proof had to be led in other ways.[8] In criminal actions reference to the oath of the accused was not admissible.[9]

The *oath in litem*, known in Roman law as the *jus jurandum in*

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before any particular court. But compare its use in England in *Constitutions of Clarendon*, c. 9. (Stubbs, *Select Charters*, 9th edn., p. 165.) The oath was derived from Roman law (cf. Leage, *Roman Private Law*, 414-416), and was institutional in France as the *serment de calomnie* (see the note by Neilson in *A.D.C.* ii. Intro. lxv).

[1] *A.P.S.* ii. 19, c. 16. [2] *B.P.* 360, cc. 12, 13.

[3] This oath also was borrowed from Roman law (Leage, *op. cit.* 377), and was identical with the French *serment décisoire* (Neilson, *loc. cit.*).

[4] *Supra*, pp. 62, 70, where the oath taken is the 'great oath.'

[5] The oath might also be used to decide questions of fact which might arise relevant to the libel or the defence (cf. *supra*, p. 104).

[6] *B.P.* 360, c. 11; MS. Sheriff Court Book of Fife, April 1575-Oct. 1575, f. 35*v*. In cases where the pursuer had no proof but merely referred the libel to the defender's oath, the latter might crave delay to be advised therewith, a delay which was usually granted (*ibid.* f. 64*v*; *B.P.* 361, c. 17).

[7] *B.P.* 361, c. 17.

[8] *Supra*, p. 16. Cf. also Morison's *Dictionary*, 9367, *Kirkaldy* v. *Pitcairn*.

[9] Partly, as Mackenzie points out, because the temptation to commit perjury would be too great, but also because criminal acts were acts against the community and so could not be decided by oath of party.

litem,[1] fulfilled its original use in the law of Scotland. Principally the oath was used to enable a pursuer readily to prove his loss or damage through any illegal act. Thus, for example, in a case of spuilzie, if the spuilzie had been proved the value of the subjects contained in the libel could be referred to the oath of the pursuer.[2] The sheriff, however, had power to moderate both the quantity and the price, a procedure known as 'taxation of the oath' (*taxatio judicis*).[3]

The final decision in all actions rested with the body of the court.[4] For certain actions and 'services' the functions of the court were delegated to a smaller body, the jury, whose finding the sheriff and the court were obliged to accept; for other actions the sheriff was 'avisit with his assessors,' a phrase which in some cases seems to indicate the finding of the jury, in others the finding of the suitors in the body of the court, or of some members chosen specifically from among them.[5] According to the early law, whilst the jury (or the body of the court whom they represented) debated their decision the sheriff retired apart, but when a decision had been reached he was recalled and in his presence the finding was pronounced.[6] Variations in this procedure abound. In the present record it is the jury who leave the court,[7] but in the Aberdeenshire records it is the parties to the case.[8]

Sometimes during the course of an action both parties might agree to submit their case to arbitration. Each side chose equally a certain number of arbitrators, who in turn could choose an additional 'odd-man' to meet the contingency of equal division.[9] The 'rights and reasons' of the case were heard by the arbitrators, who gave their decision by majority vote. In submitting their dispute to such a body both parties bound themselves 'to stand at and abide' any decision which might

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[1] Leage, *op. cit.* 368.

[2] *B.P.* 466, c. 7.

[3] Morison's *Dictionary*, 9369, *Balfour* v. *Commendator of Cambuskenneth.*

[4] *Supra*, Intro. pp. lxxviii-lxxxix.

[5] *Supra*, Intro. p. lxxxix.

[6] Cf. *Ass. Reg. Dav. I.* c. 4 (*A.P.S.* i. 317).

[7] Cf. *supra*, p. 33. We find this mode of procedure as early as 1460 (*Peebles Records*, i. 138).

[8] *L.A.R.* i. 88 (1505). This mode of procedure can be traced as early as the reign of Robert I. (cf. *A.P.S.* i. 471, c. 19).

[9] *B.P.* 412, c. 3; 413, c. 11. For an early enactment on the method of choosing arbitrators, see *A.P.S.* ii. 14, c. 6. In one case in the present record we find the dispute submitted to the sheriff 'and collegis quhame he plesit to tak to hyme' (*supra*, p. 12).

be reached. These submissions to arbitration or 'compromise,' which were possibly made to save the long delay and expense of legal proceedings, were usually registered in the record of the last diet before which the case had come on for hearing [1]; the finding, or 'decree arbitral,' was also frequently registered in the court books either for record purposes [2] or to have the authority of the court behind its enforcement.

The preceding pages seem to indicate that the legal procedure of the time was both slow and laborious. Such was usually the case, and it has already been noted that the record abounds in 'continuations.' On the other hand, there are isolated examples of expedition.[3] But it is possibly not without significance that the longest cases were generally those in which persons of some importance were cited as defenders,[4] and the shortest cases those in which such persons were pursuers.

II. Criminal Procedure.

Pollock and Maitland confess that in early English law it is difficult to draw a distinct line between civil and criminal actions. The same difficulty is to be found in Scotland. Certain actions, notably *bloodwite* and *deforcement*, may be termed quasi-criminal in that the defender is the 'accused,' he puts himself upon 'the knowledge and deliverance of an assize,' and upon the verdict of the assize he may be fined or may be made 'qwytt chargeles and fre.' [5] Moreover, if in such actions the pursuer fails to appear to pursue the action, the sheriff himself can take over the pursuit in the King's name without there being any loss of instance.[6]

A distinction, however, may be found both in the initiation of the action and in the penalty. A criminal action proceeds

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[1] Cf. *supra*, pp. 75-76, 91-92, 127, 158-159.

[2] See *infra*, pp. 331-332.

[3] Cf. *supra*, pp. 104-105, 155-156, where all stages of procedure are carried through in one day.

[4] Most notably, reference might be made to the case *Scott* v. *Sinclair* in the present record.

[5] Cf. *supra*, pp. 48, 150, and Intro. p. ci, *note* 2.

[6] *Supra*, pp. 208-209. Later in the century these quasi-criminal actions are pursued by the procurator-fiscal either alone or in conjunction with a private pursuer. It is to be noted that there is no reference to the procurator-fiscal throughout the whole of this record.

not upon a summons but upon an indictment,[1] and for a criminal action the penalty is not pecuniary but is one of 'life and limb.'[2] Thus, the sheriff's criminal jurisdiction was limited to actions of slaughter and of theft when the accused had been apprehended under certain conditions.[3] Other criminal actions were reserved for the justice-ayr, though, where the case occurred within his jurisdiction, the sheriff generally demanded pledges for the entry of the accused thereat.[4] In cases coming before the sheriff the punishment at the period of this record was almost invariably death in one form or another, and this, as Dr. Littlejohn remarks, may partly account for the paucity of record in criminal cases since 'where delinquents were put to death or banished they were finished with, whereas fines had still to be recovered.'[5]

The procedure which was adopted was distinctly summary. It almost followed the well-known maxim 'Show me the man and I 'll show you the law.' The entry in the court record seldom exceeds three or four lines.[6] But it must be remembered that in these actions the court was usually dealing with an arrant rogue. There was no pleading as in civil actions, and no procurator could be admitted for the pursuit.[7] The action lay solely upon the indictment which, beginning with the words 'You are indited and accused that . . . ,' was in the form of a bill and did not require to be proved. Usually the indictment ran in the names of the private prosecutors, though the sheriff might add his own authority thereto 'in the name of the

[1] Thus, 'Walter hird . . . Inditit & folowit be toung' (*supra*, p. 15). It is this procedure that is indicated in those statutes which state 'and this to be a point of dittay' (cf. *A.P.S.* ii. 119, c. 7).

[2] This is the distinction laid down by Bisset (*Rolment of Courtis*, i. 86), citing *Reg. Maj.* i. i. 2 (*A.P.S.* i. 598, c. 1). It is a distinction which seems to occur in cc. 11 and 12 of the *Statutes Alexander II.* (*A.P.S.* i. 402), where *iniuria et non racione* is contrasted with *vita et membris*. Possibly *iniuria et non racione* is equivalent to 'wrang and unlaw' (cf. *A.P.S.* i. 711, c. 9, and see *D.V.S.* s.v. *Tort*). There is a somewhat similar distinction in the *Consuetudines* of William the Conqueror (Haskins, *Norman Institutions*, 280) and in the *Dialogus de Scaccario*, II. 16.

[3] *Supra*, Intro. p. xxxviii; *infra*, pp. 335-338. [4] *Supra*, pp. 58, 83.

[5] *L.A.R.* i. 4. It is to be remembered, however, that the sheriff was still concerned with the escheated goods and gear of the condemned. (Cf. the protestation of Scrimgeour, *supra*, p. 15, and the surety found for the goods, *supra*, p. 122).

[6] Cf. the case of Patrick Reid (*supra*, p. 191).

[7] Cf. *B.P.* 297, c. 1.

King.'[1] Malicious accusation was guarded against by the requirement of a pledge to pursue,[2] a safeguard which we find extended also to such actions as *bloodwite* and *spuilzie*.[3]

The accused could reply to the indictment in his defence, but had finally to submit his guilt or innocence to the verdict of an assize. The assize was sworn: the indictment read: the accused made his personal statement denying or 'judicially confessing' the crime: he put himself upon 'God and the knowledge of the assize': the assize retired out of court: returned into court and brought in its verdict acquitting or condemning: doom was given. Such was the procedure, concluded in one sitting, and, if the accused was found guilty, sentence was often carried out immediately on the same day.[4] Everything points to its summary form, and the assize from the venue, probably having regard equally to the past career of the accused as to the present charge, rarely acquitted those characters of their neighbourhood who were in any way undesirable.

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[1] *Supra*, p. 208. Similarly cf. 'to ansuere . . . to our souerane lord & his schireffis' (*supra*, p. 187). Both these are quasi-criminal actions of *bloodwite*.

[2] Mackenzie, *Matters Criminal*, II. xix. 8.

[3] Cf. *supra*, p. 69. The finding of a pledge to pursue was the rule in early legal procedure for actions both civil and criminal (see the note by Hamilton-Grierson in Bisset's *Rolment of Courtis*, iii. 54 *n.*). A similar check existed in the mediæval English county court, and Dr. Morris has called attention to an entry in the Northumberland Plea Rolls in which strangers who had been the victims of assault were carried by the sheriff to the castle to remain there until they could find the necessary sureties (*Medieval English Sheriff*, 207 *n.*). In semi-criminal actions a man might also become cautioner to enter the accused 'wnder tynsale of his cause.' If the accused were then absent on the assigned day the pledge would be forfeited and immediate decree given in favour of the pursuer (cf. *supra*, p. 109).

[4] Cf. 'suld be had to the gallous . . . quhilk wes done in continent but dilay' (*supra*, p. 15).

APPENDIX B

THE WORK OF THE COURT[1]

I. Civil Actions.

Spuilȝie, Ejection, Wrangous Intromission

Although the Act of 1457/8 divided spuilȝies into spuilȝies of movables and spuilȝies of lands,[2] the term 'spuilȝie' was soon confined to movable goods only, and the term 'ejection' brought into use for buildings and land.[3] 'Spuilȝie,' 'ejection,' and 'wrangous intromission' were, however, applied generally to any actions brought for recovery, and were akin to the 'novel disseisin' of English law.[4] The term 'spuilȝie' itself was probably derived from the *actio spolii* of Canon law.[5]

Dr. Neilson inclined to the opinion that 'spuilȝie' constituted primarily a technical offence[6]: thus, an officer who poinded goods without a sufficient precept would lay himself open to an action of spuilȝie for their recovery. This theory gains some support from certain entries in the present record,[7] while it has much to support it in the legal decisions of the latter half of the century.[8] As a general interpretation, however, it is too narrow,

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[1] This Appendix is only intended to serve as a general guide to the more important civil and criminal work of the sheriff court and to its legal and administrative functions.

[2] *A.P.S.* ii. 47, c. 2.

[3] Cf. the use of the two terms, *supra*, pp. 202, 240-241.

[4] See *A.P.S.* i. 400, c. 7; 470, c. 13; 473, c. 25. For England, see the *Statute of Merton*, c. 3 (*Statutes of the Realm*, i. p. 2). For the early brieve of disseisin in Scotland, see *Dunfermline*, No. 352. See also *D.V.S.* s.vv. *Dissasina* and *Nova Dissasina*.

[5] See Pollock and Maitland, *History of English Law* (2nd edn.), ii. 29 ff., 48.

[6] *A.D.C.* ii. Intro. lxxi.

[7] Cf. 'but officer or ordour of law' (*supra*, pp. 27-28), 'but ordour or officiar' (*supra*, p. 69), and 'but officiar ore ordore of law' (*supra*, p. 203).

[8] Thus, if goods were poinded upon a decree and reduction of the decree was raised, an action for spuilȝie became competent (Morison's *Dictionary*, 13494); if, in a poinding, a third party appeared and offered to make faith

and in many recorded cases of spuilzie it is almost impossible to see any distinction between spuilzie and theft. In the present record in the action *Nichol* v. *Lawson* for the spuilzie of a copper kettle witnesses state that the Lawsons came 'in feyre of weyre' and 'spoilzeit the said catill,'[1] whilst in the action *Smith* v. *Allardyce* spuilzie seems to be a term wide enough to cover theft with violence.[2] Similarly, in the Aberdeenshire records, we find a 'spuilzie' which is described as 'maisterful and violent spoliatioun under silance of nycht be way of briganee revin away takin and withhaldin . . . furth of his bosum of his coitt betwix his dowblait and [his] coitt of his purss etc.'[3]

None of these latter cases can be described as technical offences.[4] The term included such offences, and possibly in its origin applied principally to open appropriations. But later, and in the sixteenth century, it was used to cover almost any action in which goods were taken *brevi manu*, and it is significant that in the Act of 1482 spuilzie is referred to, together with theft and slaughter, as a *criminal* action under the jurisdiction of the sheriff.[5]

The sheriff's jurisdiction in theft was a strictly limited one,[6] and he would naturally be inclined to bring all border-line cases, or even actual cases of theft which were outside his competency, within the wide scope of an indefinite action in which his jurisdiction was bound by no limitations. 'Spuilzie,' at the time of our record, was probably a happy term extending, under cover of its ambiguity, the criminal jurisdiction of the sheriff; an action brought forward under that name might also appeal to the pursuer as saving the long delay attendant upon any action for theft which had to await one of the infrequent sittings of the justice-ayr.

The legal maxim *spoliatus ante omnia est restituendus* was incorporated into the Act of 1449/50,[7] and had been enunciated

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that the goods were his, the poinder was under obligation to prove that they belonged to the first party, otherwise the poinding constituted a spuilzie (*ibid.* 10503; and cf. 10512). All the cases cited by Spotiswoode under the heading 'Spuilzie and Ejection' are definitely technical offences. (*Practicks*, 87 ff.).

[1] *Supra*, p. 231. [2] *Supra*, pp. 229-230. [3] *L.A.R.* i. 159.

[4] Similarly compare the spuilzie carried out with fire-raising and destruction of houses and goods, in *A.D.C.* ii. 38.

[5] *A.P.S.* ii. 144, c. 4. It is noticeable that the term 'resetting' is used equally for spuilzie as for theft. (*Supra*, p. 257.)

[6] *Infra*, pp. 335-337. [7] *A.P.S.* ii. 34, c. 8. See also *ibid.* 47, c. 2.

in Scottish law certainly two centuries earlier.[1] But it may be doubted how far this ideal was observed in the practice of the time, since decree in favour of the pursuer usually included an order for the restoration of the subjects in dispute.[2]

Where spuilzie was proved, the defender 'was in the amerciament of court,' but in the present record there is no statement to show the extent of the fine incurred.[3]

Removing

At the period of our record, Whitsunday and Martinmas were the terms of entry in Scotland, and at those terms quarrels and breaches of the peace abounded. If a landlord wished to remove his tenant he appeared at the tenant's door before the term and, as intimation of his intention to remove the tenant, as well as a symbol of breaking the tack, broke a wand or wooden platter.[4] Thereafter, if the tenant did not remove voluntarily at the term, the landlord had power on the second day of the term to lay out some of the tenant's goods to intimate the reality of the removing [5] and, if the tenant were still obdurate, to expel him *brevi manu*.[6]

Such a procedure naturally led to discord, tumult, and violence,[7] a state of affairs recognised by the Act of 1469, which enacted that no 'incasting or outcasting' of tenants should be carried out on the feast days of Whitsunday and Martinmas, but on the third day thereafter, so that those 'solempnit days' might be 'kepit.' [8] This Act, however, merely deferred an

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[1] *Leg. Quat. Burg.* c. 99 (*A.P.S.* i. 352).

[2] *Supra*, pp. 17, 26, 112, etc.

[3] *Supra*, pp. 19, 26, 232-233. For the various enactments of Parliament governing spuilzie see *A.P.S.* ii. 32*a*; 34, c. 8; 36, c. 7; 47, c. 2; 242, c. 9.

[4] Craig, *Jus Feudale*, II. ix. 4.

[5] Cf. 'Anderson's Protocol Book' under dates 3 June 1541 and 8 June 1541 (edited Hamilton-Grierson in *Trans. Dumfries and Galloway Nat. Hist. and Antiq. Soc.*, 1913-14, p. 186). Stair regards the laying out of the goods as a completion of the solemnity of the proceedings (*Institutions*, II. ix. 39), and this appears to be the interpretation in the present record.

[6] See Erskine, *Institute of the Law of Scotland*, II. vi. 45, 46. Erskine, in contradistinction to Stair, does not regard the laying out of the goods as part of the formality of removing but as an actual ejection of the tenant. (See also *Jus Feudale*, *loc. cit.*)

[7] Cf. *A.P.S.* ii. 476, c. 13; *Jus Feudale*, *loc. cit.*

[8] *A.P.S.* ii. 95, c. 10. Cf. 'And als layd furtht in the ferd day in wytsonowk eftir the form & tenour of act of parliament' (*supra*, p. 181).

evil which was not remedied until 1555, when a new Act laid down that no removing could be made unless forty clear days of warning before the term of Whitsunday had been given.[1]

Violent Profits and Violent Occupation

Violent profits, or 'violence,' consisted of the damage and loss which an owner of land suffered in consequence of having been deprived of the use of his land by violent occupation, *e.g.* through the failure of a tenant to remove.[2] Apparently the 'profits' could consist only of grass profits and corn profits.[3] Originally the violence was assessed by a jury, following the depositions of witnesses,[4] but later it was assessed by the sheriff following the 'fiars' of the years.[5]

Poinding and Apprising

Failure to make payment upon a decree resulted in poinding and apprising. That is to say, payment was enforced by distraint, and the order followed was (i) movables (by poinding), (ii) lands (by apprising), (iii) the debtor's actual person.[6]

Poinding

Poinding was strictly a diligence for transferring the personal property of the debtor to the creditor. At the time of decree the sheriff could direct precepts of poinding to be issued that the 'reddiest guidis and geir' of the debtor be seized and either delivered to the creditor or sold on his behalf. Apprising of the lands of the debtor could only follow if the value of the movable goods did not prove sufficient.[7] The poinding had to be carried out by an officer of the court before witnesses, and the value of the goods had to be determined by 'honest leill and trew men.'

[1] *A.P.S.* ii. 494, c. 12.

[2] Cf. *supra*, pp. 156, 180-181.

[3] Spotiswoode, *Practicks*, 350. Cf. *supra*, pp. 70-71.

[4] *L.A.R.* i. 74-80. This was similar to 'Liquidation,' an action to assess damages or profits lost (cf. *L.A.R.* i. 201). See also *supra*, p. 156.

[5] Cf. MS. Sheriff Court Books of Fife (Cupar-Fife), under date 1st May 1576. Sometimes both parties agreed to an assessment by arbitration.

[6] Later, the legal fiction arose that the debtor was not imprisoned for the debt but for his contumacy in disobeying the order to pay which was issued in the name of the King. This fiction was admitted by the Court of Session as late as 1828 in *Thom* v. *Black*. Scott expresses it admirably in chapter 39 of *The Antiquary*.

[7] Cf. *A.P.S.* ii. 96, c. 12.

Certain movable goods were exempt from poinding. During the tilling season oxen or draught cattle, ploughs and other agricultural implements could not be poinded even if they were not actually in use at the time.[1] The bucket and wand of a salt-pan were similarly free,[2] and if a pack-horse was poinded when other movable goods were available the act constituted a spuilzie.[3] The principle appears to have been the same as that of c. 20 of *Magna Carta*[4]: that a man might not be utterly ruined, but might still retain the means to support himself in his station in life. It is a principle as old as the *Book of Deuteronomy*.[5]

Poinding decreed by the sheriff court was carried out by the mair or his officers.[6]

Apprising

When the movable goods were exhausted without satisfaction of the debt, recourse was made to apprising or comprising. This meant the sale of the heritable rights belonging to the debtor sufficient to meet the balance of the debt.[7]

Apprising proceeded upon fifteen days summons made both on the ground and at the market cross of the head burgh of the shire.[8] All parties having interest in the matter were warned in the latter summons. The actual valuation of the lands[9] was performed by an inquest who, in early times, sat on

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[1] *A.P.S.* ii. 246, c. 50; 254, c. 45; iii. 217, c. 14; *B.P.* 400, c. 18; Mackenzie's *Observations*, 122-123, Act 98; *A.D.C.* xii. f. 66*r*. Cf. *supra*, p. 264.

[2] Morison's *Dictionary*, 10504 (*Sibbald* v. *Sinclair*); *B.P.* 400, c. 20.

[3] Morison's *Dictionary*, 10512 (*Gibson* v. *Corsbie*); *B.P.* 400, c. 18.

[4] *Salvo contenemento suo*, or *salva mercandisa sua*, or *salvo wainnagio suo*.

[5] 'No man shall take the nether or the upper millstone to pledge: for he taketh a man's life to pledge' (xxiv. 6). The protest against the poinding of the fuller's scissors (*supra*, p. 36) may have been made upon this principle. It is worthy of note that in 1424 Parliament decreed that drawing oxen, riding horses, and household utensils were to be exempt from assessment for the tax to pay off the debt to England. (*A.P.S.* ii. 4, c. 10.) See also the improper distresses laid down in *Britton* (ed. F. M. Nichols), i. 89.

[6] Cf. *supra*, p. 29.

[7] Cf. Erskine, *Institute*, II. xii. 1-3. An apprising carried out before the movables had been exhausted could be nullified. But see Mackenzie, *Observations*, pp. 70-74, Act 37.

[8] *B.P.* 401, c. 1.

[9] This had to include the officer's fee of one shilling in every pound. (*A.P.S.* ii. 250, c. 10.)

the lands[1] and there decided which part should be apprised.[2] The lands which were then decided to be of equal value to the debt were offered for sale, first to the debtor and owner himself, and then openly at the market cross of the head burgh to whomsoever would buy at the fixed valuation. Failing a purchaser, the lands were made over to the creditor.[3] The buyer of the lands or, failing one, the creditor was heritably infeft by the immediate superior in the same holding as that in which the lands had been held by the debtor.[4] Within the next seven years the debtor might redeem his lands by paying to the purchaser the value which had been fixed upon them, together with all incidental expenses which had been incurred, and in this he could not be refused.[5]

Where lands were scattered through several shires recourse soon came to be made to the services of a 'sheriff in that part,'[6] and in 1582 a court of apprising was held at Edinburgh purely on the plea that the debtor's lands lay in two shires.[7] This practice became common; it was encouraged by the system of central land registration; and apprisings came to be held at Edinburgh even though all the lands lay within one shire.[8]

Lawburrows

The action for lawburrows gradually fell into desuetude, though Dr. Littlejohn states that he can recall instances of its use as late as the latter half of the nineteenth century.[9] From the present record it would appear as though it was customary in all cases where there was likely to be ill-feeling for both sides to find lawburrows until the action was settled,[10] but in the Fife records of the latter half of the century the action had become comparatively rare.

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[1] Cf. *L.A.R.* i. 27, 83.

[2] *Ibid.* i. 81-82.

[3] *Supra*, p. 263; *L.A.R.* i. 86.

[4] For a full description of an apprising by the sheriff of Stirling in 1500 see *Hist. MSS. Comm.*, 9th Report, App. ii. p. 189, No. 30. An apprising by the sheriff of Roxburgh is given in full in Fraser's *Scotts of Buccleuch*, ii. No. 102, and one by the sheriff of Fife in Fraser's *Wemyss*, ii. No. 81.

[5] *A.P.S.* ii. 96, c. 12; 375, c. 24.

[6] Despite the procedure laid down in the Act of James III. (*A.P.S.* ii. 96, c. 12), and despite the Act of 1540 against the granting of commissions. (*A.P.S.* ii. 360, c. 17.)

[7] Kames, *Historical Law Tracts*, ii. 66.

[8] *Ibid.* ii. 66-68.

[9] *L.A.R.* i. 68.

[10] Similarly compare the finding of lawburrows following the acquittal of Thomas Gullen (*supra*, p. 83).

The word itself explains the action. If any man had cause, or thought he had cause, to dread bodily harm of another, then the latter could be compelled to find a pledge or surety (*borh*) that the law would be kept and no illegal violence take place. The usual form was for the surety to 'come lawborrowis his hand uphald' or to 'come lawborrowis his hand land & gude'[1] that the petitioner should be 'unskaithit himselff wyf familie seruandis etc.,' with the added qualification 'uthir wayis thane the course of commone law,' or 'bot as law will': an entry to that effect being registered in the record of the court.[2]

The old process was by a brieve of peace from Chancery, but the Act of 1429 made provision for immediate action by the sheriff upon the oath of the petitioner.[3]

When lawburrows were broken the surety became liable to fine,[4] but he had, in his turn, an action against the principal who, at the outset, had to 'become actit to warrand freith and relief him.'[5] Originally the fine went wholly to the King,[6] but the later Acts laid down that it should be divided equally between the Crown and the party injured.[7]

Registration

Before writing became a common accomplishment it was not unusual for parties to appear before the court in order that agreements made between them might be 'actit,' or registered,

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[1] See the notes by Neilson in *A.D.C.* ii. Intro. lxvi-lxvii, lxx-lxxi.

[2] *Supra*, pp. 67, 72, 85, 95, 103, etc. (Cf. *A.P.S.* ii. 225, c. 8.)

[3] *A.P.S.* ii. 19, c. 20. Reaffirmed in 1450 (*A.P.S.* ii. 35, c. 2). Cf. *supra*, p. 190.

[4] Cf. *L.A.R.* i. 72. The surety, therefore, had to be a person of some substance. Thus, 'as gentil man landit' (*supra*, p. 58), or 'the quhilk the said schiref refusyt because the said maister Alexander wes noucht landit man' (*supra*, p. 189).

[5] Cf. *supra*, p. 95. Similarly 'thai being pure bodys & hes na takkis nore steidingis of thar awine bot seruandis & lauboraris of the grond to wtheris personis na thai can get na souerteis for thaim . . . because thai hef na gudis to Releve thar souerteis' (*supra*, p. 276). The surety could claim not only for the principal sum but also for any damage he had sustained, *e.g.* through poinding. (*B.P.* 178, c. 3.)

[6] *A.P.S.* ii. 85, c. 6. In the case of baronial jurisdictions wholly to the lord.

[7] In 1466 and 1593 definite scales of fines were laid down similar to the blood payments of early codes. (*A.P.S.* ii. 85, c. 6; iv. 18, c. 13.) In the Act of 1491 the fine was left to the discretion of the judge (*A.P.S.* ii. 225, c. 8).

in the court books.[1] Such registration for 'remembrance' is referred to in the Act of 1491 relating to lawburrows,[2] and soon came to be applied to a wide variety of occasions.[3]

The actual procedure of this practice gradually developed,[4] and an Act of 1584 declared that sealing was unnecessary for registered deeds since registration was 'ane griter solempt act nor the seling.'[5] It was soon understood, however, that the registration was not merely for 'remembrance,' but had also behind it the full authority and power of the court, thereby making the agreement equivalent to a court decree.[6]

Warrandice

In early times the seller of cattle or land undertook to 'warrand' the sale, not only to prove his ownership of the subjects but also to provide the purchaser with a title to hold.[7] Thus when lands or goods were claimed from a holder on the ground that they rightly belonged to the claimant the holder produced his 'warrand,' generally the person from whom he had obtained the subject in question. Where the holder stated that he only held the subject for a third party, then the latter was summoned to aver the fact and also to enter in court the subject claimed.[8] If the third party averred possession he was required to produce his warrand and the original defender was freed from the action. A warrand might produce his warrand, who might produce his warrand up to four successive warrands, but the fourth warrand

[1] As early as the eleventh century in Normandy the Duke's *curia* was a place of record for agreements, and might order a sworn record to be made and attested. (Haskins, *Norman Institutions*, 56.) Where the court was not a court of record the agreement might be announced 'in face of the court,' a procedure advocated by Bracton as '*utilius et melius si in locis publicis sicut in comitatu et hundredo ut facilius probari possit.*'

[2] *A.P.S.* ii. 225, c. 8.

[3] Thus, in 1559, we find a bet registered in the court books of the burgh of Peebles. (*Peebles Records*, i. 262.) For registrations in the present record, see *supra*, pp. 143-144, 251-252.

[4] See Maitland Thomson, *Public Records of Scotland*, 38-43; Livingstone, *Guide to Public Records of Scotland*, 92-96.

[5] *A.P.S.* iii. 353, c. 11.

[6] Thus in the sheriff court a contract would be registered for observance 'undir the pane of rebellion and putting to the horne.' (Cf. *L.A.R.* i. 104.)

[7] The earliest references to the procedure in Scotland are to be found in the *Regiam Majestatem* and *Quoniam Attachiamenta* (*A.P.S.* i. 602-604. 625, 638, 648).

[8] *Supra*, pp. 211-212.

had to answer.[1] Usually a 'term peremptour' was assigned for the production of a warrand, and if the warrand was not forthcoming at the term the case proceeded along the normal course.[2] If the case had proceeded to litiscontestation without the defender offering to produce a warrand, no warrand could then be produced.[3]

Where the warrand did not appear and therethrough the holder lost the action, the holder could bring an action against the warrand for any loss or damage he had sustained through the default.[4]

Cognition

An action of cognition could be brought forward to settle any disputed point. Frequently it was held in connection with 'molestations,' and employed to settle the marches of lands held in commonty.[5] The present record shows the action brought forward to discover the value of ward lands,[6] or to decide the rights of the Burgh of Cupar in regard to shipping on the Eden and Motray.[7] Similarly, in 1555, an assize of Fife under the sheriff of Fife held a cognition to inquire if the Wood of Falkland 'was auld failȝeit and decayit in the grouth thairof and habill to faill allutterlie.'[8] In early times the action was termed one of 'recognition'[9] as, for example, in 1246, when Sir John of Haya, sheriff of Perth, held a recognition into the marches of certain lands held by the monks of Lindores.[10]

The action was heard by the sheriff, or other judge ordinary, by means of an inquest held generally, in view of the nature of the action, upon the actual lands.[11] Later it became

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[1] *Reg. Maj.* I. c. 22 (*A.P.S.* i. 604). The *Quon. Attach.* in a similar chapter limits the warrands to three. (*A.P.S.* i. 648, c. 6.) But see *B.P.* 317 ff.

[2] *Supra*, p. 9. [3] *Supra*, p. 181.

[4] At first, in actions in which 'clauses of warrandice' arose, the principal cause 'slept' until the warrandice had been heard; but later, the principal cause was heard through and settled, leaving to the defender a right of action against his warrand. (Bisset, *Rolment of Courtis*, i. 170-171.)

[5] Cf. Erskine, *Institute*, IV. i. 48; and see *supra*, p. 33.

[6] *Supra*, p. 5. [7] *Supra*, pp. 106-107. [8] *A.P.S.* ii. 497, c. 23.

[9] Cf. *Ducange*, s.v. *Recognoscere*, *Recognitio*.

[10] *Lindores* (Scot. Hist. Soc.), No. xxiii.

[11] *Super fundum debatabilem*, or *super bondas debatabiles*. Cf. *supra*, pp. 32, 268-269. In the later Fife records we find an action of cognition held upon the

customary to hear only the proof itself upon the lands so that the inquest could compare the lands with the wording of the charters or other title.[1]

In the latter half of the sixteenth century a practice apparently grew up of advocating actions of cognition to the Court of Session; but such advocation was forbidden by the Act of 1587, which also laid down certain rules to be observed in the choice of the jury.[2] Where, however, exception was raised against the sheriff that he was partial, the Session could appoint 'sheriffs in that part' to hold a court by commission in the locality.[3]

Deforcement

Although deforcement may be described as a quasi-criminal action, it is included here in accordance with the distinction between civil and criminal actions made above.[4] Deforcement was the forcible prevention of an officer of the law in executing the legal warrant of a competent court, and where the offence was committed against an officer of the sheriff court the sheriff was judge competent to the case.[5]

Deforcement had to be proved by two witnesses in addition to the officer. The punishment was generally a simple fine,[6] though in more serious cases the goods and gear of the offender might be escheated and his person put in ward.[7] Deforcement seems to have been removed from the jurisdiction of the sheriff by interpretation placed upon the Act of 1581.[8]

debatable lands as late as 27 July 1566 (MS. Fife Sheriff Court Books, Cupar-Fife).

[1] Cf. *L.A.R.* i. 171-176, 259-265.

[2] *A.P.S.* iii. 445-446, c. 23. This Act, which laid stress upon the importance of local knowledge and the necessity of choosing men of standing to serve upon the inquest, was one of the many salutary measures brought forward by James VI. at his majority.

[3] *Ibid.*

[4] *Supra*, pp. 322-323. By the Act of 1587 deforcement could be pursued either civilly or criminally at the option of the pursuer. (*A.P.S.* iii. 460, c. 57, § 4.) But see *infra*, *note* 8.

[5] *B.P.* 19, cc. 16, 17. The cases found in sheriff court records are usually deforcement of mairs or sergeands in the execution of poindings.

[6] Cf. *L.A.R.* i. 67.

[7] Cf. *L.A.R.* i. 66; *R.S.S.* ii. 566.

[8] *A.P.S.* iii. 223, c. 23. (Cf. *L.A.R.* i. 311, where this Act, which also covered breach of arrestment, is pleaded in an exception against the competency of the sheriff court of Aberdeen.)

Bloodwite

The old law enacted that 'gif ony man strykis anothir quhar thruch he is mayd blaa and blody he that is mayd blaa and blody sal fyrst be herde quhethir he cumys fyrst to plenze or nocht And gif that bathe be blaa and blody he that fyrst plenzeis hym sal fyrst be herde,'[1] and the term 'bloodwite' is purely a compound of 'blood' and 'wite' (*i.e.* fine).[2] Like deforcement, bloodwite was a quasi-criminal action, and a case of bloodwite before the sheriff court differs from a criminal case only in the penalty imposed.[3]

The action was decided by an assize, who either 'convicted' or 'acquitted' the 'accused.' In cases of quarrel, however, where both sides might be to blame, it was not unusual to fine both parties, sometimes equally, sometimes according to an apportionment of the blame.[4] According to Mackenzie, the *wite* in the sheriff court could not exceed fifty pounds.[5] In addition to fine, where the case was clearly one in which the guilt lay wholly on one side, the 'accused' might be ordered to pay an 'assythement' to the injured party (similar to the *bot* of early English law), this assythement being 'modified' by the sheriff upon probation by witnesses of the 'skaith' sustained.

II. Criminal Actions.

Theft

Theft (which also included 'resetting,' or the receipt and disposal of stolen goods) was only cognisant to the sheriff court when the thief had been apprehended 'with the fang' or 'redhand,'[6] that is to say with the stolen goods in his personal possession[7] or at his dwelling-place.[8] A thief not so

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[1] *A.P.S.* i. 349, c. 82.

[2] Cf. the entry *supra*, p. 48.

[3] This being pecuniary only. (See the distinction made between civil and criminal actions, *supra*, pp. 322-323.) It is noteworthy, too, that in actions of bloodwite we find the jury entered under '*Nomina Assise*' instead of under the '*Nomina Inquisicionis*' used for civil cases (see *supra*, pp. ci and *note* 2, 47-48, 149-150).

[4] Cf. *supra*, p. 132.

[5] *Matters Criminal*, II. xii. 3.

[6] Cf. *supra*, p. 217.

[7] Cf. *supra*, p. 15.

[8] Officers of the court apparently had a right of search known as 'dakering' or 'rancelling' for theft. (Cf. *Spalding Club Misc.* ii. 129-130, 133, 137.) The stolen goods seem to have been brought into court with the accused in a manner similar to the English 'hand-havand and back-berand,' when they were strapped on to him. (*Supra*, pp. 191, 210, 222.)

apprehended could be tried only by the justiciar,[1] for he was a valuable asset to the King through escheat and slavery.[2]

Since theft struck at the foundations of society, the community did not need to wait for a private prosecutor to come forward. By the early law the sheriff was empowered to accuse of 'common theft' without a prosecutor,[3] and if the accused could not find pledges he was deemed to be a proven thief and dealt with accordingly.[4] Summary justice likewise followed in all cases where the thief was taken 'hand-havand' or 'red-hand.'[5] Justice might take the form of hanging, or drowning (generally, but not always, in the case of women),[6] or perpetual bondage.[7]

From the present record it would appear as though a verdict of 'common theft' was necessary, in addition to a verdict on the actual case before the court, before a sentence of death could be given,[8] since in all cases the accused is found

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[1] Needless to say the sheriffs did not always observe the distinction (cf. *R.P.C.*, 2nd series, vii. 350), whilst commissions of justiciary were frequently granted to sheriffs, as well as to sheriffs in that part, '*ad justificandum*' (cf. *E.R.* xv. 644, 663). Possibly such commissions were due in part to the irregularity of the justice-ayrs.

[2] This accounts for such early laws as *Assise Reg. Will.* c. xiv. (*A.P.S.* i. 375) and *Reg. Maj.* iv. c. 26 (*A.P.S.* i. 636). The *Ancient Laws of Wales* refer to a thief as the 'King's Sumpter' (ed. Aneurin Owen, Anomalous, ix. xix. 4). See also *supra*, p. 122, where the sheriff concerns himself with the escheat.

[3] *Quon. Attach.* c. 27 (*A.P.S.* i. 652).

[4] *Assise Reg. Will.* c. 6 (*A.P.S.* i. 373).

[5] Cf. *Assise Reg. David I.* c. 17 (*A.P.S.* i. 320) where 'hand haffand' is equated with '*cum rubea manu.*' In Northumberland in the case of a thief taken '*cum manu opere*' the pursuer had a right to act as executioner and to receive back the stolen goods for beheading the thief (cf. Bain's *Calendar*, i. 2047, p. 395; see also *E.C.C.* 116).

[6] Cf. *L.A.R.* ii. 14, 20, 26; *Spalding Club Misc.* ii. 129-130, 134. See *S.H.R.* ii. 244, and *D.V.S.* s.v. *Fossa.*

[7] Cf. *Hist. MSS. Comm.*, 4th Report, 476, No. 38, where a charter is granted by John of Monteith, Lord of Knapdale and Arran, conferring certain lands with the right of 'selling and dismissing' thieves. See also the note in *Trans. Literary and Antiq. Soc. of Perth* (1827), and the collar described in *Cat. of Nat. Museum of Antiq. of Scotland* (1892), p. 348.

[8] In one case the accused apparently made a judicial confession of the particular theft before the court but a denial of common theft (*supra*, p. 130), and in another case the assize found that they 'coutht noucht acquyt' of common theft (*supra*, p. 211).

guilty of 'common theft' before he is 'haid bundyne to the gallos.'[1]

Slaughter

Slaughter had to be unpremeditated (*ex subito* or 'on suddantie'), committed 'chaudmelle,' or in self-defence in order to be cognisant to the sheriff court, though murder, that is, slaughter committed on 'forthocht felony,' could also be tried by the sheriff provided the murderer were taken 'red-hand.' For murder, justice was summary; but for slaughter committed in self-defence or 'chaudmelle' defences could be entered and heard.[2] A man committing slaughter, however, had at once to find surety with the sheriff to underly the law; if he fled and absented himself the sheriff, after failing to find him, could put his goods under arrest and charge him at the market cross of the head burgh to appear and find surety within six days under pain of escheat and horning.[3]

By the Act of 1432, which seems to refer to slaughter other than that committed in self-defence or 'chaudmelle,' the sheriff was ordered to pursue and apprehend the slayer immediately and to keep him in safe custody until the law could be done upon him, which had to be within forty days, but if the slayer were taken 'red-hand' he had to underly the law 'within that sone.'[4] At a later date the period within which summary justice could be administered was stated to be three days, possibly owing to the erroneous wording of the Act of 1491 which speaks of the 'thre Sonnis contenit in the auld Lawis,'[5] but that a period of only twenty-four hours was observed seems to be clear.[6] If the sheriff failed to apprehend the

[1] *Supra*, p. 217. It may be that for simple theft there was a scale of lesser punishments such as fine, scourging or banishment. (See Justice Ayr Transcripts, Register House, i. pp. 26, 59, 70; also the argument in Mackenzie, *Matters Criminal*, I. xix. 8.)

[2] Cf. *A.P.S.* i. 548*a*. According to the register of brieves in the *Bute MS.* the sheriff could try slaughter if the accused put forward a plea of self-defence; if the plea were found by the sheriff to be in agreement with the facts a retour was made to Chancery, upon which the King issued a 'letter of peace' (*Pax domini regis pro homicida se defendente*) addressed to all men. (Transcripts of Brieves, Register House, No. 42.)

[3] *A.P.S.* ii. 177, c. 5. (See also *A.P.S.* ii. 95, c. 11.) This accounts for entries such as those *supra*, pp. 179, 215-216, 275-276, 281-282.

[4] *A.P.S.* ii. 20, c. 1.

[5] *A.P.S.* ii. 225, c. 9.

[6] Cf. the 'within xxiiij^{er} howers' of the 'Relation of the Manner of Judicatores of Scotland' (*S.H.R.* xix. 272).

accused man within the limit of time he lost all cognisance in the case and it passed to the justiciar.

The punishment for slaughter was not necessarily death: indeed, an accused might be freely acquitted. For premeditated slaughter, however, the penalty was death, usually by beheading—a more humane method than the hanging which was suffered by thieves.[1] In some instances, prior to beheading, the condemned man's right hand was struck off 'in example of uthers to commit the lyk in tyme cuming.'[2]

III. Ministerial Duties initiating upon a Brieve from Chancery[3]

The Brieve of Inquest

The brieve of inquest was the most important of the brieves served in the sheriff court; it was the equivalent of the English *inquisitio post mortem*.

According to feudal law, when a holder of lands died the lands reverted to the superior of whom they were held and lay in his hands until the heir was entered to them. If the heir was a minor the superior, after allowing for the proper sustentation of the heir, enjoyed the revenues from the lands by the casualty known as 'ward,' and such enjoyment persisted until the heir reached his legal age unless special dispensation to the contrary was obtained by him. If and when the heir reached his legal age he could only be entered to his lands through the medium

[1] 'Haid to the heyding hyll & thar his heyd to be strikine fra his body' (*supra*, pp. 215, 267). Cf. Justice Ayr Transcripts, Register House, i. pp. 10, 12, etc.; Pitcairn's *Criminal Trials*, *passim*.

[2] *L.A.R.* ii. 22.

[3] As already noted, all actions originally initiated in the King's brieve from Chancery (*supra*, p. 310), but the brieves which are dealt with in this section continued to be served in the sheriff court when for other cases the old procedure had been superseded. Certain of these brieves, such as the brieve of inquest, were 'retourable' or 'non-pleadable' brieves; others, such as the brieve of terce, were 'non-retourable' or 'pleadable' brieves. In a retourable brieve no pleading was admitted before the judge, and the finding of the jury, together with the brieve and its execution, were retoured to Chancery (cf. '*et dictam inquisicionem diligenter et fideliter factam una cum hoc brevi ad capellam nostram deferri faciatis*'—*A.P.S.* i. 99); but in a non-retourable brieve pleadings were admitted and the central authority was not informed of the jury's finding.

of the brieve of inquest,[1] and until he obtained such entry the superior continued to enjoy the revenues but now under the casualty of 'non-entry.'

The brieve of inquest was served before the sheriff of the shire in which the lands lay.[2] The service might be of two kinds—either a *general service*, in which the heir only claimed to be served heir 'in general,' or a *special service*, in which the heir claimed to be served to certain lands, specifically named, lying within the jurisdiction of the sheriff before whom he was pursuing his brieve.[3]

The 'points' of the brieve were decided by the jury.[4] In the case of a general service the points were only two in number —(i) that the raiser of the brieve was 'nearest and lawful heir' to the deceased,[5] (ii) that the deceased died 'at the faith and peace of the King.[6]' In a special service, however, the jury had

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[1] At first the brieve was only pertinent for service to the estate of a father, mother, brother, sister, uncle or aunt. By an Act of Robert I. it was extended to include service to the estate of a grandfather or grandmother, but the extension was not made retrospective (*A.P.S.* i. 472, c. 23).

[2] The sheriff could not serve to lands which lay outside his jurisdiction (cf. *A.D.C.* i. 180*b*, 243*b*). Where the estate comprised lands which were scattered through several sheriffdoms it was at first necessary to obtain brieves directed separately to all the sheriffs of those sheriffdoms; but later, in order to avoid this multiplicity of proceedings, a 'sheriff in that part' could be appointed who, sitting in one place, usually Edinburgh, could serve to all the lands no matter in what sheriffdoms they lay. The procedure before a 'sheriff in that part' was also followed where the sheriff of a sheriffdom was interested or partial. (See *supra*, Intro. pp. lxix-lxxii.)

[3] Cf. *L.A.R.* i. 216, where ten of the jury find for the service but the remaining five protest that they find for a general service and not for a service to any lands.

[4] By the Act of 1503/4 (*A.P.S.* ii. 245, c. 35; 253, c. 40) it was declared that the jury could be summoned upon what days or what short time the sheriff pleased, without the formal warning of fifteen days laid down in the Act of Robert III. (*A.P.S.* i. 575*a*).

[5] If a plea of bastardy, or the invalidity of a marriage, arose, these questions had to be remitted by the sheriff to the church courts (cf. Riddell, *Peerage and Consistorial Law*, i. 37, 38, 132). But the phrase *legitimus et propinquior heres* was used loosely and not in its strictest sense (*ibid.* i. 151 *n.*, 402).

[6] If the deceased died at the horn no one could be served as his heir without dispensation from the King (*B.P.* 231, c. 35). Following the Battle of Sauchieburn a special Act had to be passed to cover the services of heirs to those who were killed. The Act prescribed that in place of the usual phrase '*obiit ad pacem et fidem supremi domini nostri Regis*' the special phrase '*quod talis defunctus obiit ad fidem domini nostri Regis Racione gracie tali concesse*

to decide further (iii) that the deceased died 'vest and seised of the lands as of fee,' (iv) of what superior the lands were held, (v) by what manner of holding, (vi) what was the old and the new extent,[1] (vii) in whose hands the lands were at the time of the brieve and since what time, (viii) that the claimant was of legal age.[2] The findings of the jury were set out in a *retour* which was 'sealed with all their seales, or of the maist part of them, togidder with the seale of the schireffe,'[3] and returned

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et nobis ostense' should be inserted (*A.P.S.* ii. 207, c. 7). In a similar manner an heir could not be served if he himself was at the horn. (*B.P.* 429, c. 48.)

[1] The Act of 1474 had decreed that all retours should state 'quhat the lande was of awaill of the auld and the werray awaill that it is worthe and gevis the day of the seruing of the saide breif' (*A.P.S.* ii. 107, c. 10). In many cases new extent seems to have been reached by taking an arbitrary multiple of the old extent. Skene observes that 'the lordes of the Session esteemis ane marke land, of auld extent, to four marke land of new extent' (*D.V.S.* s.v. *Extent*); but probably he was citing a particular case in which the multiple four was used, a multiple which the retours show to have been commonly adopted in the latter half of the sixteenth century. Craig thinks that new extent was merely a fictitious sum reached by using different multiples (*Jus Feudale*, II. xvii. 35). In general the juries seem to have followed the values given in previous retours or contained in the 'taxt rolls' (cf. *infra*, p. 394 *n.*), though sometimes the 'werray awaill' was altered. (Cf. the appeals in *A.D.C.* i. 154*a*, 269*a*, 292*b*.) The problem of new extent and old extent still awaits a satisfactory exposition. The brilliant pleading by Thomas Thomson in *Cranstoun* v. *Gibson*, 1816, though valuable, contains several major errors, whilst Professor Rait found himself able to touch only the broad outlines of the question (*Parliaments of Scotland*, 490 ff.). The reason for two extents seems to be that taxation was levied on the old extent (see *infra*, p. 394 *n.*), whilst the feudal casualties of the superior were levied on the 'werray awaill' which came to be identified with the new extent. In this connection it is to be noted that there are isolated cases of a challenge of the new extent by the superior (cf. *A.D.C.* ii. 393). Since the Crown was virtually interested only in the old extent it probably paid but little attention to the new. The old extent was certainly as old as the reign of Alexander III.; probably it was older. There is no evidence that it was ever checked, and a tax upon it, like the old one-tenth and one-fifteenth in England, was probably a financial fiction representing a certain fixed sum raised in certain fixed amounts.

[2] Royal letters of dispensation were sometimes issued allowing the service of minors (cf. *supra*, pp. 54, 61, 92; *B.P.* 228, c. 14). For the arrangements made after Flodden see the Note printed *supra*, p. 298 : 100. See also *Spalding Club Misc.* ii. 214, No. 6, where a jury is protected from error in a particular service of a minor.

[3] *D.V.S.* s.v. *Breve* (cf. *supra*, pp. 21-22). Among the title-deeds of Naughton is a retour of the special service of Janet Hay as heir to James Hay of Naughton, her father, in the half part of the lands and barony of Naughton, expede before Thomas Grundiston of Kingask, depute of Andrew Lundy of Balgonie, sheriff of Fife, 28 April 1513, and still holding twelve seals out of the

to Chancery.[1] From Chancery there was then issued under the Quarter Seal a precept of sasine (*Clare Constat*) which commanded the sheriff (if the lands were held of the King) to give possession, always accounting for those casualties which were due to the Crown and which he had to collect and balance against the Books of Responde.[2]

The brieve of inquest was not limited to service of lands only, but was equally used for service to offices.[3]

In early times the court was often held upon the actual lands, a practice which lingered into the sixteenth century in isolated instances.[4]

The Brieve of Tutory

Tutors were necessary by law for male children below the age of fourteen and for female children below the age of twelve. If tutors were named by the father in his will they were called 'tutors testamentary'; but if the father had failed to name tutors, or if the tutors named refused to serve, a tutor, or tutors, at law had to be appointed.[5] Tutors at law were served to the office by means of a brieve of tutory. The brieve was proclaimed and executed like other brieves, and was served by an inquest who decided if the claimant to office was (i) the

nineteen members of inquest who served. (MS. note in my copy of Sibbald's *History of Fife and Kinross*.) The Act of 1430 prescribed that the freeholders of the sheriffdom should bring their seals to the court. (*A.P.S.* ii. 19, c. 21.)

[1] An engrossment was then made and the original retour probably handed to the heir (see the preceding note). The earlier volumes of these engrossments prior to 1545 have unfortunately been lost, probably in the burning of Holyrood in May 1544. (Livingstone, *Guide*, 216.)

[2] See Thomson, *Public Records of Scotland*, 74, 93. References to the entries in the *Libri Responsionum* for the services recorded in the present record are given in the *Notes*. Where lands were held not of the King but of a mesne lord, the precept was directed to the lord. If he disobeyed the precept a second one, known as *Meminimus*, was sent, and again a third. If still contumacious the sheriff was ordered to give sasine. (*B.P.* 646-647; *D.V.S. loc. cit.*) For lands held of a mesne lord there are naturally no entries in the *Libri Responsionum*.

[3] Cf. the special service of Gilbert Waus to the '*officium hostiarie skacarii sue capelle Supremi domini nostri regis*' (*L.A.R.* i. 34), and the service of Alexander Lindsay to the office of blacksmith of the Lordship of Brechin (*Spalding Club Misc.* v. 291).

[4] Cf. *A.P.S.* i. 102; *Antiq. Abdn. and Banff*, ii. 367.

[5] A tutor testamentary had priority of office before any tutor at law who might be appointed (*supra*, p. 66; *B.P.* 114, c. 2; 115, c. 4).

nearest male agnate to the minor, (ii) at least twenty-five years of age, (iii) entitled to succeed the minor if perchance the latter died (if he was not next in succession, *e.g.* through there being brothers or sisters, this had to be stated),[1] and (iv) capable of managing his own affairs and therefore presumably those of another.[2] The nomination which followed upon the service gave sufficient title to the tutor for administration of the office, but he had to find surety, if so required, for ' just compt and reckoning.' If no tutors testamentary had been named and no brieve of tutory was raised within a year and a day, the King could appoint a tutor dative.[3]

[*Curators*

Upon reaching the age of fourteen (or twelve in the case of females) the minor could choose curators. To this effect he appeared before the sheriff (or other judge ordinary) and required him to issue a summons to warn two at least of the ' most honest and famous ' of his kin, upon both father's and mother's side (personally or at their dwelling-places), and any others having or pretending to have interest (at the market cross of the head burgh in a general summons),[4] to appear before the sheriff to ' hear and see ' curators given to him until the attainment of majority. The curators were then chosen by the minor, and those willing to undertake the office had to sign their acceptance, find surety, and take the oath *de fideli administracione*.[5] Curators once appointed could not free themselves from office by private renunciation ; they could be freed only by the judge ordinary before whom they had been chosen.[6]

Revocation

Upon attainment of his majority, a pupil could bring an action for revocation of acts prejudicial to him performed during his minority by his tutors or curators. Such action had to be brought within four years of reaching his majority (a period known as *quadriennium utile*), otherwise tacit approval was understood.[7]]

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[1] Cf. *supra*, pp. 64, 187-188.

[2] The entry *supra* p. 155 is difficult to understand. Upon reaching his ' perfect age ' the pupil could pursue his tutor (and the surety whom the tutor had found) for any loss he had sustained through bad administration of his estate (*B.P.* 121, c. 35).

[3] Cf. *supra*, p. 99.

[4] See Craig, *Jus Feudale*, III. vii. 21.

[5] *Supra*, pp. 58-59, 97, 129.

[6] Mackenzie, *Observations* (1686), 154-155.

[7] *B.P.* 179, cc. 2-8.

The Brieve of Terce

Terce was a life-rent allowed by law to a widow (who had not received or accepted other special provision) of the third part of the heritable property in which her husband died infeft. A widow had no title of possession and so could not receive her third until she had been served thereto. For this a brieve of terce was sued out of Chancery and directed to the sheriff of the shire in which the lands lay charging him to inquire by inquest if (i) the bearer was the lawful wife of the deceased,[1] and (ii) the deceased died infeft as of fee in the lands and at the faith and peace of the King. If the inquest was satisfied upon these two points it served the widow to a just and reasonable terce of the heritable property named in the brieve, and this entitled her to sue the tenants for a just third of the rents and to possess the property jointly with the heir '*pro indiviso*.'[2] The brieve was non-retourable and the sheriff merely interposed his authority to the findings of the inquest.

Following the service the widow was 'bekenned' to her terce. 'Cavils' were 'castin in judgment,'[3] that is to say, lots were drawn to determine where the division of the lands should begin—either at the sun (east) or at the shadow (west) side. Division of the lands was then made by the officers of the court. According as the lot had fallen on the east or the west side there division began, the first and second acres being apportioned to the heir, the third acre to the widow, and so on until the whole land had been apportioned. The divisions were marked by 'meith' stones, or upright posts placed in the ground. Upon this division the widow took the customary instruments.

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[1] Even if the woman was merely held and reputed to be the lawful wife of the deceased this counted as sufficient and no exception could stop the service. (*A.P.S.* ii. 252, c. 22.)

[2] *Supra*, pp. 225-226, 252-253.

[3] 'Cavillis wes cassin in Jugement' (*supra*, p. 237); 'the sone cavill of the sammyn drawine in Jugement' (*supra*, p. 237); 'be cavillis cassine In Jugement hereupone & drawine the sone cawill hereof' (*supra*, p. 253); 'be cavillis drawine & in Jugement cassine' (*supra*, p. 257). Cf. '*Et hoc ex parte umbrali earumdem per sortes in curia desuper tractatas.*' (*L.A.R.* i. 133.)

APPENDIX C

THE PROCEDURE OF REPLEDGING

Replegiation was a process whereby the lord of a jurisdiction could call into his own court any action in which his tenants or men were cited as defenders before another court, provided always that the action was one to which the lord was judge competent by his charter or otherwise.[1] In so withdrawing an action the lord had to find some pledge or surety that he would do justice in his own court within a year and a day,[2] and in the finding of this surety lies the origin of the term to 'repledge' or 'agane borowe.'

The process was one frequently initiated in the sheriff court by lords of regality, barons, stewards and royal burghs.[3] The mode of procedure was simple. At any time prior to litiscon-

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[1] Cf. *supra*, p. 41. Apparently, however, a grant could be made of a jurisdiction from which replegiation was excluded. (Cf. *A.P.S.* i. 580, No. 8.)

[2] The old name for this pledge was *culrach*. (See *D.V.S.* s.v.). The word can be found in various forms as *coleraith* (*Spalding Club Misc.* iv. 41-42), *collorage* (*Kinloss*, 150), *cullerhaitht* (*R.S.S.* ii. 4869), and *culrahaitht* (*supra*, p. 221). See *N.E.D.* s.v. *culrach*.

[3] Repledging could, of course, be made from other courts. For examples of a regality repledging from the justice-ayr and the chamberlain-ayr (1392, 1396), see Fraser's *Red Book of Grandtully*, i. Nos, 84*, 85*; for an example of replegiation from Parliament to the consistorial court, see *A.P.S.* ii. 467*b*. The right of the burghs was laid down in *Leg. Burg.* c. 56 (*A.P.S.* i. 343), but later it was enacted that the King's justices sitting in ayr could refuse to allow burgesses to be repledged (*A.P.S.* ii. 208, c. 10). The Act of 1587 defined the position of regalities by declaring that heritable stewards and bailies of regalities should continue to have the right of repledging from the sheriff in all causes and from the justice general and justices in that part if they had anticipated the apprehension or citation of the defender, but that there should be no replegiation from the justice-ayr, though the bailie of regality might, in cases affecting his men, be adjoined to the justiciar on the bench, and might share in the escheats and unlaws. (*A.P.S.* iii. 435*b*, 436*a*.)

testation [1] the bailie of the lord [2] could appear before the sheriff and produce his lord's letters desiring the case to be repledged to his court.[3] The particular day upon which the lord would hold his court had to be stated, though this does not always appear in the record, and a cautioner had to be forthcoming that the defender would be brought before that court 'according to justice.' [4] The pursuer had a right to raise exceptions or make protestation, but if it could be proved that the defender came within the jurisdiction named and if the other formalities were observed the sheriff could not refuse the application.

This extensive right has been traced by Lord Kames back to the time when each tribe or clan claimed to be under the jurisdiction only of its own judges: thus each lord of regality claimed his own people from other judges and brought them into his own court where they could be assured of a fair hearing.[5] It is more likely, however, that it was the outcome of pure feudalism under which justice was bound up with the holding of land; the tenant being subject only to the lord from whom he held his land.[6] Naturally in such circumstances a 'fair

[1] *B.P.* 339, c. 3. A defender could not be repledged if he had proponed defences, possibly because that was tantamount to an acceptance of the judge and court. (*Quon. Attach.* c. 4, *A.P.S.* i. 648; *Leg. Burg.* c. 56, *A.P.S.* i. 343; Mackenzie, *Matters Criminal*, II. xi. 7 *in fine*). See also the article by R. Stewart Brown in *Eng. Hist. Rev.* xl. 13-21.

[2] Cf. the request for a bailie who could repledge (*Dunfermline*, No. 354).

[3] In one case in the present record we find the defender himself producing such letters, but the letters were apparently not accepted, and at the next court the bailie appeared and repledged the case. (*Supra*, pp. 76, 78.) According to the *Quon. Attach.* a baron's suitor could repledge to his lord's court, presumably, however, only if he had letters of authority (*A.P.S.* 650, c. 11). For the 'style' of letters of replegiation see *Kelso*, No. 550, and *Dunfermline*, No. 587. See also *Juridical Review*, iv. p. 119. At first it is possible that replegiation may have been carried out by brieve. (Cf. *Spalding Club Misc.* v. p. 210.)

[4] The steps are clearly set out in the cases *supra*, pp. 102-103, 220-221. On p. 221 it is to be noticed that the cautioner is received by the sheriff 'his hand wphaldin.' (See also *L.A.R.* i. 149, 156.)

[5] *Historical Law Tracts*, ii. 297-301. Cf. the special right of Dunfermline with regard to the men of the blood of Maccaroun (*Dunfermline*, No. 456). 'Kenkynol,' though surviving historically only in the taking of 'caupes,' probably originally also embraced a right of justice. Other 'laws,' such as that of the Clan McDuff, which have been frequently cited in this connection, appear to me to be more in the nature of rights of sanctuary.

[6] Why should not the mysterious 'utfangandethef' simply mean a right of

hearing' not infrequently meant a lenient sentence, even to the extent of abuse,[1] though the old law laid down that failure to do justice in the lord's court meant the return of the defender to the sheriff court and the loss to the lord of his jurisdiction for a year and a day.[2]

In the sixteenth century replegiation became associated more and more with actions of spuilzie and ejection,[3] and the right of repledging and trying such actions appears to have been one of the chief distinctions between the jurisdiction of a regality and that of a barony.[4]

It must be remembered, however, that the sheriff had an equivalent right of repledging cases to his own court whenever the defender came from within the royalty of the shire.[5]

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jurisdiction possessed by the lord over his own men if they were apprehended of theft outwith the bounds of his lands?

[1] See the remarkable case of *The King's Advocate* v. *The Master of Lindsay and others.* (*Juridical Review*, iv. 105 ff.)

[2] *Quon. Attach.* c. 4 (*A.P.S.* i. 648). See also *A.P.S.* i. 469, c. 10.

[3] Cf. *B.P.* 289, c. 3.

[4] Cf. *Melrose*, No. 579 (*A.D.C.* xvi. f. 109*v*). Note the exception of spuilzie made *supra*, p. 131, and its inclusion *supra*, p. 78.

[5] Cf. *R.S.S.* ii. 4869, where the right of repledging to the sheriff court from other courts both spiritual and temporal is given to the Earl of Rothes upon his appointment as sheriff of Fife. For an example of the sheriff repledging from the burgh court see *Peebles Records*, i. 212. See also *supra*, Intro. p. lvi.

APPENDIX D

THE SCOTTISH SHERIFFDOM

Part I

The first sheriff who appears on record in Scotland is Gospatric (Cospatric) '*vicecomes*,' one of the witnesses to Earl David's charter founding the Abbey of Selkirk (1119 × 1120),[1] and such evidence as we possess tends to show that he was sheriff of Roxburgh.[2] The connection with Earl David is important. The office of sheriff had no place in the earlier Celtic organisation, but in the reign of David several sheriffs appear by name, and that King, who had spent his early years at the English court, may perhaps be credited with the definite establishment of the office in Scotland.[3]

[1] *Kelso*, No. 1 (*L.C.* No. 35). The *vicecomes* referred to in the 'Notitiae of Grants by Macbeth and Gruoch to St. Serf' (1040 × 1057), if contemporary with the original, was probably a 'vice-count' (*St. Andrews*, p. 114; *L.C.* No. 5); in the later grant made by Ethelred (1093 × 1107) the phraseology is '*sine exactione . . . episcopi vel regis vel comitis.*' (*St. Andrews*, p. 115; *L.C.* No. 14.)

[2] In a document which unfortunately cannot be dated, but which appears to be of the beginning of the twelfth century, we are told that 'Ethelwin, bishop after Ethelric, appointed there [Hexham] as prior Utred, Ulfkill's son. This Utred is the father of Gospatric, who is now sheriff in Teviotdale.' (Raine, *Priory of Hexham* (Surtees Soc.), i. App. viii. No. 4.) Further evidence is supplied by Gospatric's connection with the lands of Crailing (*L.C.* Nos. 189, 190). He also witnesses a charter granted by David I. to the church of St. John in the castle of Roxburgh. (*Glasgow*, No. 4; *L.C.* No. 83.)

[3] We can dismiss without comment the untenable statements to be found in Buchanan's *History*, Wallace's *Peerages* and similar works. Mr. J. Wallace states that the first sheriff occurs in a charter of Alexander I., where Malcolm is mentioned as *vicecomes* of Scone. (*Sheriffdom of Clackmannan*, p. 8.) I have been unable to trace this charter. Malothenus (Maldounus) does not occur as sheriff of Scone until 1128 × 1136 (*Dunfermline*, No. 29; *L.C.* No. 94). Robertson also states that he has met with the *vicecomes* in charters of Alexander I. (*Scotland under Early Kings*, i. 186). Unfortunately he cites no

To trace the early sheriffs and sheriffdoms is a task of no small difficulty. The earliest sheriffs' accounts we possess are those, preserved in Lord Haddington's transcripts, for the years 1264-1266; the earliest extant original accounts are dated 1328; and for later years the majority of the accounts have perished.[1] Until the end of the thirteenth century, when sources for the study of Scottish history begin to multiply, we are almost entirely restricted to the evidence supplied by the chartularies of religious foundations, where the names and designations of sheriffs occasionally occur in the testing clauses. But these engrossments are not always trustworthy,[2] and few of the early charters can be dated otherwise than by limit-dates.[3] Moreover, even when the earliest known sheriff of a district has been traced, it can not be stated either that he was the first sheriff, or that in that reign the sheriffdom was established. The designation *vicecomes* was frequently omitted by men definitely known to have been sheriffs; earlier sheriffs may not have witnessed charters now extant, or earlier charters which

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references, and later he refers to the sheriff as 'introduced by David' (*ibid.* i. 440).

The 'style' of Alexander I.'s later charters is '*Alexander Dei gratia Rex Scottorum episcopis et comitibus necnon et omnibus fidelibus totius terrae suae*' (cf. *L.C.* Nos. 47, 49). The style of the early charters of David I. is '*omnibus comitibus et baronibus et omnibus fidelibus suis*,' with slight variations (cf. *L.C.* Nos. 62, 66, 68, 70, 71, 79, 84, 87). But about 1130 the address begins to include '*vicecomitibus*' (*L.C.* Nos. 90 *et seq.*). This evidence is suggestive. (A book of charter-styles would be invaluable for the study of early Scottish history. Thus the charter in *L.C.* No. 67 can scarcely be *circa* 1126, as dated by Lawrie, but should probably be 1130×.)

It is possible that David was only carrying out an administrative scheme already conceived by Alexander, and it is worthy of notice that in one place Alexander is described by Ailred as 'endeavouring to compass things beyond his power.' Moreover, at least one chronicle records that in his reign '*in Scotia tota . . . pax firma vigebat.*' (Skene, *Chronicles of Picts and Scots*, 181.) If the *castrensis provincia* is to be taken as an original model of the sheriffdom the origin should be placed still earlier (*infra*, p. 372, *note* 5).

[1] Cf. *E.R.* ii. Preface xxxv.

[2] Cf. the review of Lawrie's *Early Charters* by Dr. Maitland Thomson in *S.H.R.* ii. 430-431.

[3] In very few cases can the dates assigned to charters by the various Club editors be trusted. For most of the early limit-dates given in the following pages I have to express my thanks to Mr. A. O. Anderson, whilst I have also adopted his method in their use (see *Early Sources of Scottish History*, i. xviii). The publication of a trustworthy charter-index for early Scottish charters is long overdue.

they did attest may have perished. Hence we can only rely upon the earliest references that have been preserved, though even then the evolution and possible formation of the sheriffdoms is instructive.[1]

The sheriffdoms which can be traced in the reign of David I. are :—

Roxburgh

Gospatric was apparently sheriff of Roxburgh for a period ×1120-1126×.[2] In ?1139 Gervase Riddell is designated sheriff,[3] and on 3 May 1147 Robert, son of Wido (Guy), witnessed a charter as sheriff of Roxburgh.[4]

Scone [5]

As early as 1128×1136 Malothenus (Maldounus) was sheriff of Scone.[6]

Berwick

In 1124×1139 David I. addressed a writ '*Vicecomiti de Berwic praepositis et omnibus probis hominibus suis vicecomitatus de Berwic.*' [7] A '*Normannus vicecomes*' appears as a witness

[1] The following analysis does not pretend to give a complete account of the different sheriffdoms, but only to indicate their formation and possible extension. The material has been collected from all the sources that I have been able to examine, but I cannot hope that my search has been exhaustive. Scottish history has yet to be enriched by a series of County Histories written on the plan of the excellent Victoria County Histories of England.

[2] See Anderson, *Early Sources of Scottish History*, ii. 169 *n.* According to Dalrymple, John, son of Orm, was the first sheriff of Roxburgh in the reign of David I. (*Collections*, 382). I have been unable to trace him as sheriff.

[3] *L.C.* No. 120; Raine, *North Durham*, App. No. 23; Dalrymple, *op. cit.* 348.

[4] *L.C.* No. 178; Raine, *op. cit.* App. No. 21. The year M.CLXVII is a scribal error.

[5] Chalmers states, rather cautiously, that although there were sheriffs of Roxburgh and Berwick in the reign of David I. yet he doubts 'whether there were during that reign any sheriffs in proper Scotland' (*Caledonia*, ii. 715 *n.*).

[6] *L.C.* No. 94; *Dunfermline*, No. 29. (Cf. Dalrymple, *op. cit.* 390.) Malothenus, or Maldounus, de Scona must be distinguished from Maldounus MacOcbeth. (Cf. *L.C.* No. 74; *Dunfermline*, No. 1, where both occur in the list of witnesses.)

[7] *L.C.* No. 154.

in the foundation charter of Holyrood (1128×1136),[1] and there can be little doubt that he was sheriff of Berwick.[2]

Stirling [3]

Writs are addressed by David I. to his sheriff of Stirling in 1128×1147 and in 1147.[4] In 1125×1147 William was sheriff of Stirling,[5] and in 1128×1153, Gilbert.[6]

Clackmannan

David I.'s charter to the Priory of May granting it rights in the wood of Clackmannan is addressed '*Episcopis comitibus vicecomitibus ministris et gilleserfis de Clacmanec*,'[7] and in 1147×1153 the King directs a writ to his sheriff of Clacmanet.[8] Clacmanet is undoubtedly Clackmannan, a form which we find both earlier and later.[9] In 1153×1161 Gillemore '*vicecomes de Clacmanan*' occurs.[10]

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[1] *L.C.* No. 153; *Holyrood*, No. 1; *A.P.S.* i. 359.

[2] Cf. *L.C.* No. 152; *Holyrood*, No. 8 (1141×1152), and *L.C.* No. 178 (1147). In both cases he is designated '*Normannus vicecomes de Berwic.*' Maitland, presumably misled by the connection with Holyrood, states that Norman was sheriff of Edinburgh (*Hist. Edinburgh*, 145), and the mistake was repeated by Chalmers (*Caledonia*, iv. 574 *n.*).

[3] See *infra*, p. 372, *note* 5.

[4] *Holyrood*, No. 5 (*L.C.* No. 93); *Dunfermline*, No. 7 (*L.C.* No. 143).

[5] *Dunfermline*, No. 6; *L.C.* No. 61.

[6] *Dunfermline*, No. 9; *L.C.* No. 127; *Holyrood*, No. 27. Lawrie (*op. cit.* 364) identifies him with Gilebertus de Striuelin (not designated sheriff), who witnessed a charter to the church of Glasgow, 1135×1141 (*Glasgow*, No. 3; *L.C.* No. 109), and in view of the territorial designation this may be possible. He must be distinguished from Gillebride, sheriff of Dunfermline 1166×1168 (*St. Andrews*, 216), although the Latin rendering of *Gillebride* is often *Gillebertus*. (Cf. Martine, *Reliquiae Divi Andreae*, 168.)

[7] *May*, No. 5; *L.C.* No. 156 (1141×1150). For a note on *gilleserfs* see *May*, lxxi-lxxv. In 1231 we find a juror bearing the name or title 'Gilleserf mac Rolf.' (*Dunfermline*, No. 196.)

[8] *St. Andrews*, 183; *L.C.* No. 188. [9] Cf. *L.C.* Nos. 103, 153, 209.

[10] *St. Andrews*, 197. Wallace thinks that Clackmannan was originally attached to Stirling. He points out that the sheriffdom is not mentioned in the *Exchequer Rolls* for 1264-1266, although Stirling, Fife, and Kinross are mentioned, whilst in 1263 the sheriff of Stirling collected certain crown rents from the lands of Menstrie and Sauchie which are now in Clackmannan (*Sheriffdom of Clackmannan*, 41-42). He appears to have overlooked the early charters cited above, and to have forgotten that Haddington only transcribed such entries from the Rolls as were of interest to him. For Menstrie and Sauchie see *infra*, p. 363, *note* 9. It must be remembered also that in early times lands were frequently detached

Perth

There was apparently no sheriff of Perth in 1124×1128 [1]; but in 1147×1153 a sheriffdom of Perth is mentioned,[2] and in 1163×1164 a charter is witnessed by '*Nessio filio Willelmi Lineth vicecomite de Pert.*'[3] These were undoubtedly two witnesses—Nessius, son of William, and Lineth, sheriff of Perth. Nessius, son of William, is well known; but Lineth, the sheriff, is quite obscure.[4]

To these sheriffdoms which can be traced in the reign of David I. certain doubtful ones should perhaps be added :—

Aberdeen and Banff

In the *Registrum Episcopatus Aberdonensis*, a charter of date 1136×1137 contains the words '*infra vicecomitatus de Aberden et de Banff.*'[5] This might be taken to mean that there were two separate sheriffdoms, Aberdeen and Banff, in the reign of David I. But the testing clause of the charter is undoubtedly spurious,[6] and it is improbable that Banff at any rate was a sheriffdom at so early a period, although the form of early charters does lend a presumption in its favour.[7] The first sheriff of Aberdeen on record is Sir Philip of Melville, who held

from one sheriffdom and added to another. In ×1264 we find the 'constabulary of Clackmannan' with a castle of Clackmannan (Calendar of Charters, Register House, No. 54), and this bespeaks a separate administrative unit. Although Wallace's theory receives support from the fact that in 1304 William Bisset was apparently sheriff of both Clackmannan and Stirling (Bain's *Calendar*, ii. 1514, 1515, 1564), yet in the Ordinance of 1305 no such connection was admitted (*A.P.S.* i. 121). If Clackmannan was originally under Stirling it would form part of the *castrensis provincia* (*infra*, p. 372, *note* 5).

[1] *Dunfermline*, No. 25; *L.C.* No. 69.

[2] *May*, No. 7 (*L.C.* No. 202); *St. Andrews*, p. 187 (*L.C.* No. 248).

[3] *Scone*, No. 5.

[4] He appears under the more likely name of Kyneth (Kenneth) in the transcript in *A.P.S.* i. 365.

[5] *Aberdeen*, i. pp. 3-4; *L.C.* No. 116.

[6] See *L.C.* p. 354. If genuine, the date of the charter would be 1124×1150.

[7] The editor of the chartulary appears to have been uncertain in the extension of the form *vic-*. Thus he transcribes 'infra *vicecomitatum* de Aberden et de Banff' and 'infra *vicecomitatus* de Aberden et de Banff' in two charters of close date (*Aberdeen*, i. pp. 8, 9). The repetition of the word '*de*' does seem to indicate two sheriffdoms, but I have been unable to carry out the careful examination of the manuscript which is necessary for a real conclusion, whilst in addition it must be remembered that many of the early charters in this Register are open to grave suspicion. (See *E.R.* ii. p. cxix *n.*)

office as early as 1222,[1] while R. de Strathechyn appears as sheriff of Banff in 1264, and was apparently sheriff in 1263 also.[2]

Edinburgh

There was apparently no sheriff or sheriffdom of Edinburgh in 1124×1128.[3] Mr. Malcolm states that a sheriffdom had been erected by 1140,[4] but his interpretation of the evidence is open to doubt. Tor (Thorus) *vicecomes* appears in 1141×1150,[5] and in 1147×1152,[6] in both cases without any stated sphere of office, although the evidence seems to indicate the sheriffdom of either Haddington or Stirling.[7] Prior to 6 January 1161×1162 Galfridus (Geoffrey) was '*vicecomes meus de castello puellarum*,'[8] and it is probable that he was sheriff of Edinburgh.[9] There is also a writ addressed by Malcolm IV. to Robert, his sheriff of Edinburgh.[10]

Haddington

In two charters, one by David I. (1131×1138)[11] and one by Earl Henry his son (1139×1150),[12] the grant of Clerkington to the church of St. Mary of Haddington is made '*sicut Willelmus de Graham et Durandus vicecomes . . . periverunt et circuierunt*,' and it may be that Durandus was sheriff of Haddington before those dates, a view which is supported by Lawrie.[13] A similar conjecture (for it is conjecture only) may be made with regard to Thorus. Thorus *vicecomes* is a witness to a charter by David I. granting a toft in the burgh of Haddington to the

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[1] *Vetus Arbroath*, No. [242]; Robertson's *Index*, p. liii (25 March 1222× 24 March 1223). See also *L.A.R.* i. 393-394.

[2] *Aberdeen*, i. p. 158; *E.R.* i. p. clxxx. In Haddington's transcripts he appears as R. de Strathewan (*E.R.* i. 15).

[3] *Holyrood*, No. 3 (*L.C.* No. 72).

[4] *S.H.R.* xx. 131, citing *Dunfermline*, No. 11 (to be dated 1147×1152).

[5] *Kelso*, No. 375 (*L.C.* No. 159).

[6] *Dunfermline*, No. 11 (*L.C.* No. 203).

[7] See *infra*, under *Haddington*.

[8] *Newbattle*, No. 155.

[9] See *infra*, pp. 370-371. In 1165 we find Galfridus *vicecomes*, presumably of Edinburgh, although no sphere of office is given. (*Holyrood*, App. II. No. 2.)

[10] *Dunfermline*, No. 48. If we can assume continuity of office for Galfridus, Robert must have preceded him as sheriff and this charter could be dated 1153×1162.

[11] *St. Andrews*, p. 181 (*L.C.* No. 134).

[12] *St. Andrews*, p. 191 (*L.C.* No. 135).

[13] *L.C.* p. 371.

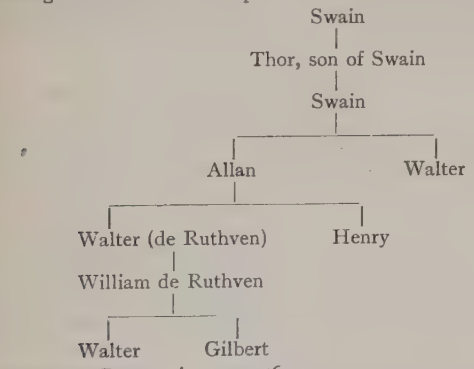
Abbey of Dunfermline and given at Edinburgh,[1] whilst 1124×1128 a Thor of Tranent is witness to a charter by David to the church of St. Cuthbert in Edinburgh.[2] A third Thor, Thorus filius Swani, also occurs in this period,[3] and Lawrie, without citing his authority, identifies Thor sheriff, Thor of Tranent, and Thor son of Swain as one and the same person.[4] If the identification can be accepted, the connection with Tranent lends support to the theory that Thor was sheriff of Haddington.[5] On the other hand, Thor the sheriff was also witness to a charter by David I. granting Kelso a saltpan in the Carse of Stirling, and given at Stirling 1141×1150,[6] whilst W.[illiam], son of Thorald, later appears as sheriff of Stirling.[7] This might

[1] 1147×1152. *Dunfermline*, No. 11 (*L.C.* No. 203).

[2] *Holyrood*, No. 3 (*L.C.* No. 72). See also *Holyrood*, No. 6 (*L.C.* No. 160) (1141×1147).

[3] *Dunfermline*, No. 13 (*L.C.* No. 87) (1128×1140); *Glasgow*, No. 11 (*L.C.* No. 230) (1147×1150); *Holyrood*, No. 11 (*L.C.* No. 214) (1153×1161).

[4] *L.C.* pp. 322, 334. In *L.C.*, *Index*, however, Thor the sheriff and Thor of Tranent are grouped together, whilst Thor, son of Swain, stands alone. This seems to be a more likely interpretation. Although Thor, son of Swain, grants to Holyrood certain rights in the church of Tranent (*Holyrood*, No. 11; *L.C.* No. 214), he seems to have a closer connection with Perth. The charter by David I. to Dunfermline which Thor, son of Swain, witnesses was granted at Perth (*Dunfermline*, No. 13; *L.C.* No. 87), and from *Scone*, No. 125, the following tree can be drawn up:



But see *Scots Peerage*, iv. 254-256.

[5] Mr. Malcolm, relying solely upon *Dunfermline*, No. 11, assigns to Thor not only the sheriffdom of Edinburgh but also that of Linlithgow! (*S.H.R.* xx. 131, notes 6 and 10.)

[6] *Kelso*, No. 375 (*L.C.* No. 159).

[7] *Cambuskenneth*, No. 132 (*circa* 1195). A William, son of Thor, also occurs in ?1178 as witness to a charter to the church of St. Mary of Stirling. (*Ibid.* No. 36.)

lead to an assumption that Thor *vicecomes* was sheriff of Stirling and was succeeded in that office by William his son, who, however, must not be confused with the earlier William.[1] It does show the difficulty of drawing inferences from the meagre evidence we possess. In 1184, and here we are on safer ground, Alexander of St. Martin was sheriff of Haddington.[2]

The sheriffdom of Haddington soon became administratively dependent upon Edinburgh. In 1263 Edinburgh, Haddington, and Linlithgow were all under one sheriff[3]: an arrangement retained in Edward's Ordinance of 1305.[4] In Robert I.'s charter to Alexander of Seton of the Barony of Tranent, Haddington is referred to as a 'constabulary'[5]; in 1334 it was transferred to Edward III. as a constabulary under Edinburgh[6]; and from the fourteenth century onwards the usual designation was '*constabularia de Hadington infra vicecomitatum de Edinburgh.*'[7] The constabulary, however, was administered as a separate unit[8] (although the sheriff of Edinburgh was regarded as the officer finally responsible),[9] and possessed its own sheriff (constabulary) court.[10] In 1468 Edinburgh, Haddington, and Linlithgow were referred to as three sheriffdoms,[11] but throughout the whole of the sixteenth century the sheriff of Edinburgh was 'sheriff principal of Edinburgh and of the constabulary of Haddington.' In 1647 there is a reference to the election of the *sheriff-principal* of the sheriffdom of East Lothian,[12] but

[1] *Supra*, p. 350.
[2] *Newbattle*, No. 20.
[3] *E.R.* i. 24, 25.
[4] *A.P.S.* i. 121. In 1296 the corporation of the burgh of Haddington, swearing fealty to Edward I., are described as 'in the county of Edinburgh' (Bain's *Calendar*, ii. 815).
[5] *R.M.S.* i. App. i. 45.
[6] Bain's *Calendar*, iii. 1127.
[7] *R.M.S.*, *passim*.
[8] Cf. *E.R.* ii. 227.
[9] Thus, in 1389, letters were ordered to be directed to the sheriff of Edinburgh and his *bailies* of Haddington and Linlithgow. (*A.P.S.* i. 558*b*.)
[10] In Bruce's charter to Alexander of Seton the *reddendo* includes '*unam sectam curie nostre de Hadingtoun*' (*R.M.S.* i. App. i. 45). In 1475, in a charter referring to lands '*in constabularia de Hadingtoune infra vicecomitatum nostrum de Edinburgh*,' we find a *reddendo* of '*tres sectas ad tria placita capitalia curie vicecomitatus de Edinburgh tenenda apud burgum nostrum de Hadingtoune.*' (Fraser's *Douglas Book*, iii. No. 105.)
[11] *A.P.S.* ii. 91*a*. The status of the constabulary, however, had undoubtedly not changed.
[12] *A.P.S.* vi. pt. i. 781, c. 369.

apparently the dependence upon Edinburgh was not completely severed until after the Revolution.[1]

In the short reign of Malcolm IV. further sheriffdoms emerge :

Forfar

M. vicecomes de Forfar appears in a charter of 1162×1164.[2] In the early years of the following century several sheriffs can be traced, including William Comyn, Justiciar of Scotland.[3]

Lanark

Prior to 6 January 1161×1162 Baldwin (of Biggar) was sheriff of Lanark.[4] The next sheriff on record is William of Hertesheved (Hartside) in 1225,[5] and thereafter the holders of the office can be traced almost continuously.

Linlithgow

Prior to 6 January 1161×1162, Udredus or Uctredus was sheriff of Linlithgow,[6] and in 1162×1164 Malcolm IV. issued a writ addressed '*vicecomiti suo et burgensibus suis de Linlidcu et omnibus aliis probis hominibus suis de Linlidcuskir*.'[7]

Like Haddington, this sheriffdom soon passed into a state of dependence upon Edinburgh. In the earliest exchequer

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[1] The 'constabulary' of Haddington is an historical puzzle. There was no castle at Haddington and no 'motte' has been found there. Chalmers, referring to Balliol's cession of 1334, points out that castles are expressly mentioned where any existed, but no castle is mentioned for Haddington. (*Caledonia*, iii. 409 *n.*) The Commission on Ancient and Historical Monuments of Scotland has not produced any satisfactory explanation of the term (*Report on East Lothian*, Intro. xvii-xviii, xli). In 1288, in the account of the sheriff of Edinburgh and Haddington, there is an entry—'*Item, in missione duorum malefactorum de Hadinton usque ad castrum de Edinburgh, et in pastu incarceratorum, ij s.*' (*E.R.* i. 37.) The only interpretation seems to be that Haddington and Linlithgow (see *infra*, p. 356) looked to Edinburgh as their castle and were regarded as part of its constabulary lands.

[2] *Scone*, No. 17. For some unaccountable reason Mr. Malcolm assigns this sheriff to the reign of David I. (*S.H.R.* xx. 131 *n.*).

[3] William Comyn, David of Haya, Hugh of Cambrun (Cameron), Thomas Malherbe. (*Vetus Arbroath, passim.*)

[4] *Newbattle*, No. 155.

[5] *Glasgow*, i. 129.

[6] *Newbattle*, No. 155. See also *Holyrood*, No. 27. He appears as *Algray* in *Holyrood*, App. II. No. 3 (1165). Both forms of the name are thus open to suspicion.

[7] *Scone*, No. 14.

accounts, Edinburgh, Haddington, and Linlithgow are under one sheriff,[1] an arrangement which had apparently been in force for some time. In September 1296, however, Edward I. issued separate writs to the sheriffs of Linlithgow and of Edinburgh,[2] though in October of the same year all three were once more grouped under one sheriff,[3] an arrangement maintained in the Ordinance of 1305.[4] In 1334 Linlithgow is referred to as a 'constabulary' under Edinburgh,[5] and in 1367 we find a reference to the '*vicecomes de Edynburgh et constabularius suus de Lynlithcu.*'[6] The 'constable,' however, administered his 'constabulary' as a separate unit[7] (although still included within the sheriffdom of Edinburgh),[8] and apparently it had its own sheriff (constabulary) court.[9] In 1433-34 Linlithgow is referred to in one and the same account both as a constabulary and as a sheriffdom[10]; in 1452 there is a reference to the *vicecomitatus de Linlithqw*[11]; and in 1465 Sir Archibald of Dundas is sheriff.[12] In 1468, when commissioners were appointed to assess the value of every man's rent in the sheriffdoms of Edinburgh, Haddington, and Linlithgow, Linlithgow, unlike Haddington, had regained and maintained its status as a sheriffdom.[13]

Kincardine (The Mearns)

John of Hastings was sheriff of the Mearns in 1165×1178, and was possibly sheriff at an earlier date.[14]

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[1] *E.R.* i. 24, 25.

[2] Bain's *Calendar*, ii. 832.

[3] *Ibid.* ii. p. 225.

[4] *A.P.S.* i. 121.

[5] Being ceded as such by Balliol to Edward III. (Bain's *Calendar*, iii. 1127.) See also *E.R.* ii. 184 and *R.M.S.* i. 180.

[6] *E.R.* ii. 252. Cf. also *A.P.S.* i. 501 and *R.M.S.* i. 228. In 1389 letters were ordered to be directed to the sheriff of Edinburgh and his *bailies* of Haddington and Linlithgow. (*A.P.S.* i. 558*b*.) Similarly in 1390 we find a writ addressed to the sheriff of Edinburgh and his *bailies* of Linlithgow, whilst Linlithgow is referred to as a *constabularia* in the same writ. (*A.P.S.* i. 577, No. 1*.)

[7] Cf. *E.R.* ii. 227.

[8] The usual style is '*in constabularia de Linlithcu infra vicecomitatum de Edynburgh.*' (*R.M.S.* i. *passim*).

[9] Cf. *Cambuskenneth*, No. 173 (1306); *R.M.S.* i. 180.

[10] *E.R.* iv. 597-599.

[11] *A.P.S.* ii. 75, No. 35.

[12] *Aberdeen*, ii. 316.

[13] *A.P.S.* ii. 91*a*.

[14] *Spalding Club Misc.* v. 210. Nisbet states that Osbert Olifard was sheriff in the reign of Malcolm IV. (*System of Heraldry*, ii. App. pp. 80-81), and is

In the following reign, that of William the Lion, we find :

Selkirk

In an inquest of 1305, printed in Bain's *Calendar*, a jury found that William the Lion gave the sheriffdom of Selkirk to Andrew of Sinton, from whom it descended heritably to Alexander his son, Andrew son of Alexander, and Alexander his son.[1] Alexander [of Sinton], great-grandson of Andrew of Sinton, the first known sheriff, appears as sheriff of Selkirk in 1258,[2] and renders account to the exchequer in 1265[3] and 1288×1290.[4] He was succeeded by Andrew his son, who was taken prisoner at Dunbar and died in prison.

Peebles

In 1184 Simon, son of Malbet (Macbeth), was sheriff of Traquair.[5] In 1233 and in 1241 Gilbert Fraser occurs as sheriff of Traquair,[6] whilst in 1259 he is referred to as sheriff of Peebles.[7] Eymerus Maxwell was sheriff of Peebles on 7 October 1262[8]; Simon Fraser was sheriff of Traquair in 1263, 1265, and 1268,[9] and sheriff of Peebles in 1266.[10] William Perer (Perel) was sheriff of Traquair 1288×1290,[11] and in 1292[12]; but on 7 January 1292/3 he is '*nuper vicecomes de Trevqueir*,[13] and about that

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repeated by Chalmers (*Caledonia*, ii. 516), and Watt (*Mearns of Old*, 148). All these writers apparently misread the Latin of the document printed by the Spalding Club. For a note on the Olifards see Round, *Feudal England*, 223-224.

[1] *Op. cit.* ii. 1681. Selkirk may quite possibly have been a sheriffdom before it was granted to Andrew of Sinton. The Sintons came from the barony of Sinton in Roxburghshire, and when made heritable sheriffs of Selkirk were freed from the castle ward due to Roxburgh castle and from the service of suit owed from their barony to the sheriff court of Roxburgh.

[2] *Kelso*, No. 218.

[3] *E.R.* i. 30.

[4] *Ibid.* i. 35, 46.

[5] *Newbattle*, No. 20.

[6] *Glasgow*, i. 131; *Newbattle*, No. 121.

[7] *A.P.S.* i. 98.

[8] *Ibid.* i. 100.

[9] *Soltre*, No. 41; *E.R.* i. 32; Bain's *Calendar*, i. 2679; *Melrose*, App. xiii.

[10] *Kelso*, No. 190.

[11] *E.R.* i. 35, 46.

[12] *Rot. Scot.* i. 8*b*, 11*b*.

[13] *Ibid.* i. 17*a*.

time the references to Traquair disappear. It is noticeable that these dates, so far as can be ascertained, do not conflict, and evidently the sheriffdom of Peebles was the same as the sheriffdom of Traquair.[1] The variations in name probably indicate only a change in the place of the sheriff's castle. During certain periods Scottish castles were held by English garrisons; at other times castles were destroyed in warfare; and there might be many reasons for a change of place. This would be especially likely if the castle were not a well-built edifice. As we shall see later, it was the general rule for the sheriffdom to take its designation from the castle.

Ayr

William the Lion's charter shows that there was a sheriffdom of Ayr $\times 1207$,[2] and the first sheriff on record is Reginald of Crawford, who probably held office before 1214,[3] and as late as 1228 or later.[4] Carrick is referred to as a *vicecomitatus* in 1292/3,[5] but in the following century both Carrick and Cunningham are definitely under Ayr.[6]

Nairn (Invernairn)[7]

In 1204 William Freskin was sheriff of Invernairn, and a fragment of his account has been preserved.[8] In 1305 Edward I. included Nairn with Forres under one sheriff, Alex-

[1] In his transcripts of the early exchequer rolls, Haddington noted that the lands of the 'ballia de Treuequer' corresponded to lands in the sheriffdom of Peebles. (*E.R.* i. 32.)

[2] *Charters of Ayr*, No. 1.

[3] *Paisley*, p. 22 (1208×1214); *Melrose*, No. 72 (1205×1240).

[4] *Newbattle*, No. 139. He appears as sheriff of Ayr in 1223 (*Glasgow*, i. 118-119); he is designated sheriff in 1227 (*Stirling Charters*, No. VIII); and Dalrymple gives him as sheriff in 1228 (*Collections*, p. lxv). He is not designated sheriff in William the Lion's charter (*loc. cit.*). In 1223 we find a witness 'D. Crauford vicecomes de Are' (*Charters of Ayr*, No. 3); this is almost certainly a scribal error for 'R. Crauford.'

[5] *A.P.S.* i. 447*b*.

[6] Cf. *R.M.S.* i. 54.

[7] Nairn and Invernairn ought perhaps to be distinguished, for Invernairn is now under the sand.

[8] *A.P.S.* i. 118; Robertson's *Index*, p. xix. He was apparently William, lord of Petty, Bracholy, Boharm and Arndilly, the son of William, son of

ander Wiseman.[1] It cannot have been of large extent, for as late as 1392 it appears as '*vicecomitatus de Narne infra vicecomitatum de Invernys*,'[2] and in the following century it was apparently held under the Earls of Ross as a separate unit.[3]

Inverness

Mr. Malcolm seems to include Inverness among the sheriffdoms to be traced in the reign of David I.[4] But Argyle, Argyle of Moray, and Moray were almost certainly on a different footing from the more settled south-eastern districts which are known to have been sheriffdoms in David's reign. Their erec-

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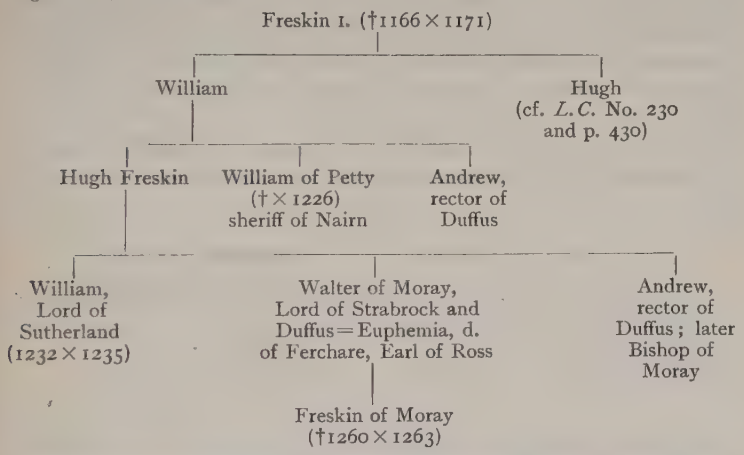
Freskin I. His pedigree (as derived from Gray's *Sutherland and Caithness in Saga Time*) would be:


Freskin I. (†1166×1171)
William
Hugh
(cf. L.C. No. 230 and p. 430)
Hugh Freskin
William of Petty (†×1226) sheriff of Nairn
Andrew, rector of Duffus
William, Lord of Sutherland (1232×1235)
Walter of Moray, Lord of Strabrock and Duffus = Euphemia, d. of Ferchare, Earl of Ross
Andrew, rector of Duffus; later Bishop of Moray
Freskin of Moray (†1260×1263)

Bain (*History of Nairnshire*, p. 85) says that William Pratt is the first sheriff on record, followed by Freskin. Unfortunately he cites no reference. William Pratt was sheriff in 1227 (*A.P.S.* i. 118; Robertson's *Index*, p. xviii). Walter [William?] Pratt was sheriff in 1226 (*Moray*, Nos. 71, 72), whilst William Pratt was sheriff in 1228 (*Moray*, No. 109). In the citations from *Moray* it must be noted that the editor of that register has erroneously extended the form *vic'* into *vicarius* instead of *vicecomes*, whilst Walter and William appear to be one and the same person (cf. Bain's *Calendar*, i. 2635, where a similar confusion occurs).

[1] *A.P.S.* i. 121.

[2] *R.M.S.* i. 742.

[3] See *Thanes of Cawdor*, pp. 46, 52, 55-56.

[4] *S.H.R.* xx. 131, quoting *Moray*, p. 10. There is nothing in that charter to justify the statement.

tion into sheriffdoms would probably be of later date. In $\times 1172$ there was a sheriffdom of Moray with a sheriff [1]; in his charter to Inverness, William the Lion refers to '*vicecomes meus de Inuernis*' [2]; and the castle of Inverness acted as *caput* for the sheriffdom of Moray or Inverness.[3] In the 'Law that is callyt Claremathane' it is evident that the sheriff of Inverness had some kind of jurisdiction over Moray, Ross, Caithness, and Argyle (Argyle of Moray),[4] and later we find that the sheriffdom included Ross and Caithness,[5] Cromarty and Dingwall,[6] Sutherland,[7] and the Isle of Man.[8]

Fife

There seems to have been no sheriff or sheriffdom of Fife in 1128×1138, and at that time the *judex* was apparently still the royal judicial officer.[9] Malcolm IV., however, addressed a writ to his justice of Fife and his sheriffs of Dunfermline and Clackmannan,[10] and 1166×1168 William the Lion's charter to Dunfermline was witnessed by '*Gillebrido vicecomite de Dunfermelin.*'[11] William, sheriff of Crail, is a witness to charters 1154×1178,[12] and later Galfridus occurs as sheriff of Crail.[13] By 1212-13, however, Galfridus has become sheriff of Fife,[14] and thereafter it is possible to trace an almost continuous list of the sheriffs.

[1] *Moray*, No. 1 (if genuine).
[2] *A.P.S.* i. 89.
[3] Cf. *E.R.* i. 13. Matthew of Paris identifies Moray and Inverness in 1249. (*Chronica Majora*, Rolls Series, v. 93.)
[4] *A.P.S.* i. 372, c. 3.
[5] *E.R.* i. 13.
[6] *Scot. Hist. Soc. Misc.* ii. p. 25.
[7] *E.R.* i. 570.
[8] *Ibid.* i. 570.
[9] *Dunfermline*, No. 15 (*L.C.* No. 105); *A.P.S.* i. 85. Also in 1128×1136 Swain appears as the King's *praepositus*, presumably of his lands in Fife (*Dunfermline*, No. 18; *L.C.* No. 85).
[10] *Dunfermline*, No. 38.
[11] *St. Andrews*, p. 216. Gillebride, it must be admitted, occurs very low down in the list of witnesses. This raises a suspicion that the form *vic-* may have been extended into *vicecomes* for *vicarius*. A sheriff of Dunfermline certainly seems doubtful despite the writ of Malcolm IV. (*Dunfermline*, No. 38). The burgh does not appear to have been founded until the fourteenth century, though there may have been a royal castle there (which is the important point) as early as the reign of Malcolm III.
[12] *St. Andrews*, pp. 248-249.
[13] *Ibid.* p. 275; *Cambuskenneth*, No. 37. I have been unable to date these charters.
[14] *St. Andrews*, p. 316. In 1227 a writ of Alexander II. is addressed to his '*vicecomes de fif*' (*Dunfermline*, No. 78).

Under Alexander II. (1214-49) other sheriffdoms emerge:

Elgin

Alexander was sheriff of Elgin for a period ×1225-1232×.[1]

Forres

In 1226 Richard was sheriff of Forres.[2]

Elgin and Forres

In the earliest extant *Exchequer Rolls* Elgin and Forres appear to stand as separate sheriffdoms, but in his Ordinance of 1305 Edward I. grouped Forres with Nairn, while Elgin stood alone.[3] In the *Cambridge MS.* Forres, Elgin, and Nairn all appear as separate sheriffdoms,[4] and in 1309 Robert I. addressed a writ '*vicecomiti de foreys*.'[5] Elgin and Forres seem to have remained separate sheriffdoms until at any rate 1450,[6] but towards the end of the fifteenth century they appear grouped together under one sheriff.[7]

Dumbarton

The first sheriff on record is William Bisset, sheriff of Dumbarton in 1237,[8] but the sheriffdom was probably erected considerably earlier.

Dumfries

Although the sheriffdom may have been erected in the reign of William the Lion to check the Galwegian risings,[9] a sheriff

[1] *Moray*, Nos. 28, 30, 31, 33, 35, 62, 72, 120.

[2] *Ibid.* Nos. 71 and 72. In these charters he is given as *vicarius*, but there can be no doubt, from the fact that Thomas Durward (sheriff of Inverness), Walter [William] Pratt (sheriff of Nairn), and Alexander (sheriff of Elgin) are also all given as *vicarius*, that the designation should be *vicecomes* (the form *vic.*~ having been erroneously extended).

[3] *A.P.S.* i. 121.

[4] *Scot. Hist. Soc. Misc.* ii. p. 25. Similarly cf. Bain's *Calendar*, ii. 1909.

[5] *Kinloss*, p. 131.

[6] Cf. *E.R.* i. 441-443; ii. 47; *A.P.S.* i. 578, No. 3; *Thanes of Cawdor*, p. 8; Fraser's *Douglas Book*, iii. No. 80 (*anno* 1450). On the other hand, see *R.M.S.* ii. 193 (*anno* 1431).

[7] Cf. *Kinloss*, p. 135; *T.A.* i. 316; *R.M.S.* ii. 2409; *Familie of Innes*, p. 93; *Thanes of Cawdor*, p. 143; *E.R.* xiv. 66.

[8] *Paisley*, p. 218.

[9] Later, in 1246, the sheriff of Dumfries seems to have held a watching brief over Galloway. (Cf. *Holyrood*, No. 74.)

of Dumfries does not emerge until the reign of Alexander II. In 1237 Thomas Ranulphi was sheriff of Dumfries,[1] and he is possibly the same Thomas Ranulphi who later (1266-69) was sheriff of Roxburgh.[2]

In the reign of Alexander III. further sheriffdoms are again to be found in the records :

KINROSS

In 1252, John of Kinross, sheriff of Kinross, witnessed, according to Nisbet, a perambulation of the lands of Cleish,[3] and in 1263 he rendered account to the exchequer as sheriff of the sheriffdom.[4]

WIGTOWN

In 1265 Alexander Comyn, Earl of Buchan, rendered account to the exchequer as sheriff of Wigtown, and from his account it is clear that he was sheriff at the time of Haco's invasion (1263).[5]

CROMARTY

In 1264×1266, and for some time previously, William of Mowat was sheriff of Cromarty.[6] In the *Cambridge MS.* Cromarty appears to be included with Inverness,[7] but in the Ordinance of 1305 the sheriffdom stands alone and the office of sheriff is stated to be heritable, presumably in the family of Mowat.[8]

SKYE, LORNE, AND KINTYRE

were erected into sheriffdoms by Act of Parliament during the short reign of John Balliol.[9] The Act states that they were erected 'for the peace and stability of the kingdom,' and, according to the rubrics, the sheriffdoms were formed out of

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[1] *Melrose*, No. 206. Possibly he was not Thomas son of Randolf, but rather Thomas, son of Thomas, son of Randolf.

[2] *Kelso*, No. 190; Bain's *Calendar*, i. 2680.

[3] *System of Heraldry*, i. p. 398.

[4] *E.R.* i. 34.

[5] *Ibid.* i. 30.

[6] *Ibid.* i. 19, 26. See W. M. Mackenzie, *The Old Sheriffdom of Cromarty*, pp. 13-14.

[7] *Scot. Hist. Soc. Misc.* ii. 25.

[8] *A.P.S.* i. 121.

[9] *Ibid.* i. 447*b* (*anno* 1292/3).

the lands respectively of the Earl of Ross, Alexander of Argyle, and the Steward, who presumably became the sheriffs.[1] But this arrangement did not last. The growing sheriffdom of Argyle seems early to have included Lorne,[2] and in 1430 James I. granted to Alexander Montgomery of Ardrossan and Robert Cunningham of Kilmaurs the office of keepers of Kintyre and Knapdale, including '*plenariam potestatem . . . curias nostras, tam vicecomiti quam justiciario spectantes, tenendi, delinquentes in forma juris communis regni nostri puniendi et mulctandi etc.*'[3], an arrangement which continued into the sixteenth century.[4]

To these sheriffdoms there are few to add.

Argyle

Although both Skene[5] and Robertson[6] state that Argyle was erected into a sheriffdom after Alexander's invasion (probably 1221×1222), and although this view is a probable one, yet the absence of Argyle from Edward's list of 1305 would seem to preclude the formation. Dr. Maitland Thomson has advanced the view that the *vicecomitatus Ergadie* which appears in the Index to the lost rolls of Robert I.[7] is the same as the sheriffdom of Lorne created by the Parliament of John Balliol; that is, that we are dealing here not with a new erection but merely with a changed designation.[8] This view commands respect, but the scanty nature of the records makes any complete investigation into the administration of the outlying western provinces impossible. In 1326, however, the constable of Tarbert accounted for 100 marks from Dugal Campbell, third son of Sir Colin Campbell ('Mor'), '*de compoto suo vicecomitatus Ergadie*,'[9] whilst there are similar entries of later

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[1] Cf. also *A.P.S.* i. 288*a*.

[2] *Infra*, p. 364 and *note* 2.

[3] Fraser's *Montgomeries of Eglinton*, ii. No. 35.

[4] Cf. *E.R.* xiv. 517.

[5] *Highlanders of Scotland*, p. 357.

[6] *Scotland under her Early Kings*, ii. 15-17.

[7] *R.M.S.* i. App. ii. p. 533, Nos. 350-353.

[8] *Ibid.* Intro. p. xii *n*. It is to be noted that Argyle does not occur under any designation in the list of sheriffdoms given in the *Cambridge MS.* (*Scot. Hist. Soc. Misc.* ii. 25).

[9] *E.R.* i. lxxiii, 52. It has been stated that Gillespic Campbell was heritable sheriff of Argyle in the time of Alexander III., but I have found no proof of this. In the account of the sheriff of Stirling, in 1263, £40 is deducted from the crown rents from Menstrie (Menstreth) and Sauchie (or Sauchope) (Salwchop) and given to Gillespic Campbell (*E.R.* i. 24).

date.[1] In 1369 Lorne is certainly included in Argyle[2]; in 1383 the sheriffdom included Cowal[3]; and later, Tarbert, which seems to have absorbed the sheriffdom of Kintyre, was also merged into Argyle.[4]

Tarbert

The castle of Tarbert was in process of erection in 1325.[5] By 1328 a town had grown up round the castle, had become a royal burgh and had obtained a cocket.[6] The sheriffdom was probably erected not much later, though it does not appear on record until 1481.[7] Eventually Tarbert and Argyle absorbed between them the lesser sheriffdoms of Kintyre, Lorne, and Skye, and most of the lesser Isles,[8] and finally the sheriffdom of Tarbert was annexed to Argyle in 1633.[9]

Bute

According to several writers, Edward Balliol made Sir Alan L'Isle sheriff of the Isle of Bute in 1334,[10] but there is no mention of this erection in the records of the time. For the year 1387-1388, however, John Stewart, natural brother of Robert III., received a fee as sheriff of Bute,[11] and he appears to have been appointed sheriff of Bute, Arran, and Cumbray in 1385, being confirmed in the office by Robert III. in 1400.[12]

Renfrew

Renfrew was originally a barony included in the sheriffdom of Lanark.[13] According to Crawfurd it was raised to the status

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[1] *E.R.* i. 196, 198; ii. 256.

[2] *E.R.* ii. 341. Cf. also *Hist. MSS. Comm.*, 4th Rep., p. 474.

[3] Calendar of Charters (Register House), No. 180.

[4] It is difficult to trace the extent of the sheriffdom of Argyle in the fourteenth century, but it is possible that it included parts of Lorne, Bute, Cowall, Knapdale and Arran as early as 1366 (cf. *A.P.S.* i. 500).

[5] *E.R.* i. 52. [6] *Ibid.* i. 118. [7] *R.M.S.* ii. 1464.

[8] Cf. *Retours*, Argyle, Nos. 7, 8, 15, 16, etc.; and see *note* 4 above.

[9] *A.P.S.* v. 80. The absorption of Tarbert into Argyle can be seen in process as early as 1505 (cf. *Hist. MSS. Comm.*, 4th Rep., p. 476, No. 43), and the Act of 1633 states that the sheriff courts of Tarbert had long been held at Inveraray, the *caput* of Argyle.

[10] Cf. Balfour's *Annals*, *sub anno*; Aikman's *Buchanan*, ii. 18; Nisbet's *System of Heraldry*, i. 215. [11] *E.R.* iii. 686.

[12] Hewison, *Isle of Bute*, ii. 141-144; Reid, *History of Bute*, 196.

[13] '*In baronia de Renffrow infra vicecomitatum de Lanark*' (*R.M.S.* i. 407, *anno* 1371).

of a separate sheriffdom in 1404 at the time of the so-called charter of erection of the Principality of Scotland [1]; but there is no evidence to support that argument, and in June 1405 it was still described as the barony of Renfrew '*in vicecomitatu de Lanerk.*' [2] On 12th August 1414, however, Finlayus Buntyne was designated sheriff of Renfrew,[3] and the evidence which we possess tends to show that the erection was made about that time.[4] This would support the statement made by Metcalfe, who, without citing his authority, placed the erection 1413×1414.[5]

Ross and Caithness

were erected into sheriffdoms by Act of Parliament in 1503/4.[6] Although they were then separated from Inverness the Act did not become operative until its later ratifications in 1641 and 1649,[7] and not until 1661 were the bounds of Ross-shire defined and Lewis included within the sheriffdom.

[The Isles

In 1503/4 an Act of Parliament was passed directing that justices depute and sheriffs depute should be made for the Isles both north and south.[8] This has usually been taken to indicate their erection into a sheriffdom, but there can be no doubt that the deputes for the Isles were to be deputes of the sheriffdom of Inverness.[9]]

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[1] *History of the Shire of Renfrew* (1818), p. 14 and App. I. Hamilton gives the date as 1402 (*Description of Lanark and Renfrew*, p. 1).

[2] *Abstract from Public Records concerning the Steuartry and Principality of Scotland, etc.* (1824), c. iv.

[3] Calendar of Charters (Register House), No. 239; Transcripts of Miscellaneous Charters (Register House), *sub anno.*

[4] In December 1413 John Semple of Elliotstoun was sheriff of the *regality* of Renfrew (Fraser's *Memoirs of the Maxwells of Pollock*, i. p. 146, No. 25). Finlay Buntin (not designated sheriff) appears as one of the inquest in a court of the steward of the Lennox held 31 July 1413. (Bisset, *Rolment of Courtis*, i. 314.) A Finlai Buntin was one of the bailies of the burgh of Dumbarton 1388-1389 (*E.R.* iii. 181, 197).

[5] *History of Renfrew*, p. 78.

[6] *A.P.S.* ii. 241, c. 5; 242*a*; 249, c. 5.

[7] In 1509 we find the arrangement that Ross and Caithness, though still part of the sheriffdom of Inverness, should have their own deputes (*R.M.S.* ii. 3286).

[8] *A.P.S.* ii. 241, c. 3; 249, c. 3.

[9] Thus the immediately following Act refers quite clearly to the sheriffdoms of Ross, Caithness and *Inverness* when deciding the seat of the justice-ayr. (*A.P.S.* ii. 242*a*; 249, c. 5.)

Orkney

According to Storer Clouston, the Orkney Lawmen yielded place to the sheriff some time between 1519 and 1540, for by the latter date the sheriff is found acting on every occasion on which the Lawman used to act.[1]

Sutherland

Although we find the phrase '*infra vicecomitatum Sutherlandie*' in a charter of the fourteenth century,[2] it is quite certain that Sutherland, or the land south of Caithness, was still at that time a regality. In 1601 James VI. issued a charter to the Earl of Sutherland granting him the modern county (with the exception of Assynt) to be held heritably as a separate sheriffdom,[3] but the grant appears to have been abortive,[4] and in 1631 Charles I. issued a new charter (this time including Assynt), and promised to secure for it parliamentary ratification.[5] This ratification was subsequently duly obtained.[6]

[Kirkcudbright

Probably Kirkcudbright was originally included in Dumfries. It was eventually erected into a stewartry but never became a sheriffdom.]

This presents a complete list of the Scottish sheriffdoms, though certain anomalous ones have yet to be noted here :

Auchterarder

Auchterarder appears as a thanage in 1236.[7] In 1290, however, we find a '*computum Malisii comitis de Strathern, firmarii burgi de Vchirardour et balliui vicecomitatus eiusdem loci*,'[8] and in 1304 it again appears as a sheriffdom, this time with Sir

[1] *Records of the Earldom of Orkney* (Scot. Hist. Soc.), Intro. lxxii.

[2] *Familie of Innes* (Spalding Club), p. 60.

[3] *R.M.S.* vi. 1170.

[4] In 1602 we find '*in comitatu Sutherlandie et vicecomitatu de Caithness*' (*Retours*, Caithness, No 4).

[5] *R.M.S.* viii. 1847. [6] *A.P.S.* v. 62, c. 54.

[7] '*In theynagio de Ouchyrardour.*' (*Lindores* (Scot. Hist. Soc.), No. xxii.) In Skene's note to his edition of *Fordun* (ii. pp. 414-419) he does not include Auchterarder in his list of thanages, although he includes Forteviot.

[8] *E.R.* i. 51.

Malcolm of Innerpeffer as sheriff.[1] The Edwardian Ordinance of 1305 seems to group Auchterarder and Clackmannan together as one sheriffdom, again under Innerpeffer, though the Ochils would appear to render such an arrangement geographically impossible.[2] It was apparently still a sheriffdom in 1306/7,[3] but in 1328 it appears as a burgh only,[4] and there is no later reference to the sheriffdom. Possibly it owed its origin as a sheriffdom to its strategical position, but as a 'sheriffdom' was eventually absorbed. We have no trace of the process in this particular case, but the process itself was common.[5]

Dingwall

In 1264×1266 Alexander Comyn, Earl of Buchan, appears as 'sheriff of Dingwall.'[6] In the *Nomina Vicecomitatuum Scocie* Dingwall is apparently included in the sheriffdom of Inverness,[7] but in 1306/7 it again appears as a separate sheriffdom.[8] There is a previous reference to Comyn as 'bailie' of Dingwall,[9] and although Dingwall may have stood at one time as a separate administrative unit it was apparently soon absorbed into Inverness.

Bathgate

In the fourteenth century Bathgate appears as an ordinary barony within the constabulary of Linlithgow.[10] Early in the sixteenth century it is still a barony but, by annexation, within the sheriffdom of Renfrew,[11] and it is so designated as late as 1593.[12] In 1594, however, Parliament 'understood' that the

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[1] Bain's *Calendar*, ii. 1646, p. 439. In the *Nomina Vicecomitatuum Scocie* (possibly of 1304) Vgtrardor appears as a separate sheriffdom but with a very small farm. (*Scot. Hist. Soc. Misc.* ii. 25.)

[2] The Ordinance as printed in the Record Edition of the *A.P.S.* (i. 121) seems to place Clackmannan under Innerpeffer and to leave Auchterarder without an assigned sheriff. Bain, however, definitely groups the two together under Innerpeffer. (*Op. cit.* ii. p. 458.)

[3] Bain's *Calendar*, ii. 1909.

[4] *E.R.* i. 94.

[5] *Infra*, p. 379. It is interesting to note that there is similarly no trace as to how and when Auchterarder lost its privileges as a royal burgh.

[6] *E.R.* i. 26.

[7] *Scot. Hist. Soc. Misc.* ii. 25.

[8] Bain's *Calendar*, ii. 1909.

[9] *E.R.* i. 19.

[10] *A.P.S.* i. 563, No. 8; *R.M.S.* i. 657; *Reg. Hon. Morton*, ii. No. 163.

[11] *E.R.* xv. 614; *R.M.S.* ii. 3243: MS. Sheriff Court Book of Linlithgow, 1541-1561 (Register House), f. 3*v*.

[12] *R.M.S.* v. 2336.

'schirefdome of bathcat is and hes bene of auld ane schirefdome within the selff,'[1] and thereafter the designation maintains.[2] In 1663 Thomas Hamilton of Bathgate Hall was confirmed by Parliament in the office of sheriff of the sheriffdom of Bathgate,[3] and in 1681 Purves included it in his survey as a separate sheriffdom but with the negligible account :

[4] Lochtwill 1[d] monetæ . .	00 00 01	0010 00 01
Book	10 00 00	

At the time of the abolition of feudal jurisdictions in 1747 it was still a sheriffdom, and a claim was made for it as such.

It is essential to repeat here that although these are the earliest references which I have been able to find, many sources may have escaped my notice, whilst the early sources are generally so slender that it is more than probable that many of the sheriffdoms were erected at earlier periods. Even upon the evidence which we possess, however, one or two points in the growth of this administrative system are outstanding. The earliest sheriffdoms seem to be those formed in Lothian. Then, gradually, the sheriffdoms extend along the line of least resistance up the east coast, Stirling having been secured as the nodal point.[5] The more difficult provinces in the north and west hold out against the new organisation until the last. The reach of the sheriffdoms represents the reach of the royal power. Each push into the unknown is marked by a royal castle to protect and a royal sheriff to hold and to organise the new district that has been gained. Thus the sheriff becomes at once a judicial, a military, and an administrative officer of the crown.

Part II

In England the shire system was Anglo-Saxon. Certain of the English shires, such as Kent and Sussex, represent earlier kingdoms ; others were possibly formed by Alfred ; but the whole country (with the exception of the northern counties)

[1] *A.P.S.* iv. 80, c. 59.
[2] Cf. *R.M.S.* vi. 1020 ; *Retours*, Linlithgow, No. 164.
[3] *A.P.S.* vii. 512, c. 90.
[4] *Revenue of the Scottish Crown* (ed. Rose), p. 87.
[5] A glance at an orographical map of Scotland immediately demonstrates the position.

was organised upon the shire-model certainly as early as the reign of Edward the Confessor. This shire was administered partly by the scyr-gerefa, partly by the ealdorman. With the Conquest, however, the Norman kings introduced their own officer, the *vicecomes*, and superimposed their own administrative system upon the previously existing Anglo-Saxon one. Thus a complex administrative unit arose, and the shire in England could be reckoned only in terms of its *farm*.

In Scotland there was no early scyr-gerefa. There do appear to have been early districts under earls, mormaers, and later, thanes. But these districts were not of a like nature to the English shire. Feudal administration found in Scotland a virgin soil, and the Scottish sheriffdom appears to have been in origin an artificial unit coinciding with no previous land-division and ruled by no natural geographical bounds.[1] Some

[1] In an interesting essay on '*The Shire*,' Robertson argued that the Scottish shire was 'made up of twelve lesser vills,' and that this shire was 'easily identified with the thanage' (*Historical Essays*, 1872, pp. 125-128). Unfortunately Robertson seems to have confused the mediæval 'shire' with the civil administrative unit which was later known as the 'county.' Originally 'shire' merely meant something cut off, a division: 'so the diocese was the bishop's *scire*, and the stewardship of the unjust steward is called in the Anglo-Saxon translation of the Gospel his *groefscire*' (Stubbs, *Constitutional History*, 4th edn., i. 122. But see Morris, *Medieval English Sheriff*, p. 2, note 8). The 'shires' of Kirkcalethin, Gellald and Gatemilc (*Dunfermline*, No. 1) are more properly the parishes, with no connection with the civil administration, though in view of the later text it is interesting to find the constable of Kinghorn burdening himself in 1357 with the fermes '*tam burgi quam shyre*' as well as with the annual-rents of the '*shire de kyngorne*' (*E.R.* i. 564). Mr. Malcolm has apparently fallen into a similar error (*S.H.R.* xx. 132). Apart from this confusion, however, certain of Robertson's arguments are interesting and ingenious, though some of his deductions from the Registers of Aberdeen and Dunfermline can easily be shown to be erroneous. Moreover, an exhaustive examination of the early references to 'shire' and 'thanage' has failed to yield any satisfactory proof of his contention, whilst where both designations are found, as for example in the case of Aberdeen, it may be that an identification is being made of two definitely distinct units. (Cf. *E.R.* i. 11, 551, with *Aberdeen*, i. 117, 230.) Admittedly the so-called 'sheriffdom' of Auchterarder may have been formed out of a previously existing thanage (cf. *supra*, pp. 366-367), and Cromarty as a sheriffdom may have been co-extensive with an earlier thanage of Cromarty (see Mackay Mackenzie, *The Old Sheriffdom of Cromarty*, pp. 6-7), but in both these instances there is no identification of a 'shire' and a thanage, and both formations seem to have been purely feudal. It is to be noted, however, that in Normandy the Frankish *vicaria* may have become in some cases the *vicecomitatus* (Haskins, *Norman Institutions*, 46), and certain early sheriffdoms in Scotland may have

of the later sheriffdoms admittedly bear the names of previously existing earldoms (though the extents of the two units differed considerably), but the earlier sheriffdoms, and by far the greater majority, all took their names from the castle of the king, and a close inspection of the evidence which we possess tends to show that in its original form the Scottish sheriffdom, especially in the south and east, was the counterpart rather of the continental *châtellany* than of the Anglo-Saxon shire.[1]

The early connection between sheriff, sheriffdom, castle, and burgh is very close. We have already noticed '*Galfridus vicecomes meus de castello puellarum*,'[2] and the term '*vicecomes castri*' was not infrequently used to designate the sheriff of that

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been co-extensive with ecclesiastical 'shires' (*infra*, pp. 385-386). With further research and further evidence it may also yet be possible to find some definite link between 'shire' and thanage, for there is an interesting coincidence in the service due from lands held by thanes and lands held by the Church (the 'shire' being considered as exclusively an ecclesiastical unit). But the real identification of the 'shire' and the sheriffdom does not obtain until comparatively modern times, when the *vicecomitatus* becomes the *county* or *shire*.

[1] See the description of the Angevin *châtellany* in Powicke, *Loss of Normandy*, chapter vii, section 3, and pp. 34-35 note 1. In Scotland, in the early accounts of sheriffs which have been preserved through Haddington's transcripts, there are to be found entries of '*minute ferme*' for the different sheriffdoms (*E.R.* i. 8, 12, 24, 35, etc.), whilst we frequently find the lands of the King let out to farm by the sheriffs (cf. *E.R.* i. 31) or by the chamberlain (cf. *E.R.* i. 20, 38). But there was no 'farm of the shire' in the English sense, and in the accounts for the 'Contribution of the Peace' it is significant that there are entries distinguishing between the payments made by freeholders, by *firmarii domini regis* and by others (cf. *E.R.* i. 104, 107). Various valuations of the Scottish sheriffdoms have come down to us (cf. *A.P.S.* i. 500), but, with the possible exception of the valuation given in the *Cambridge MS.* (*Scot. Hist. Soc. Misc.* ii. 25), such valuations are 'extents,' or valuations as a basis of taxation, rather than farms. (Recently Miss Demarest has endeavoured to show that the English farm, too, was of a tax nature rather than a rent nature, but her conclusions have not been generally accepted.—See *Eng. Hist. Rev.* xxxv. 78-89; xxxix. 161-174.) And in this connection it should be noted that although the '*firme ballie ex utraque parte maris Scocie*' in 1264 amounted to £2896, a sum which seems, in fact, to have been for *three* terms (*E.R.* i. 10), the total given in the *Cambridge MS.* is no less than £8099. There must have been some early valuation of lands for taxation purposes (cf. *E.R.* i. 48, and the arrangements made for the tenth-penny granted to Bruce in 1326), but it is clear that such valuations did not form the basis of a 'farm of the shire,' and that the '*firme ballie*' which occur in the accounts represent merely the money rents paid by part only of the lands within the *ballia*.

[2] *Newbattle*, No. 155.

sheriffdom of which the castle was the *caput*.[1] The sheriffdom, too, frequently appears as a unit dependent upon the castle,[2] a kind of appurtenant of the castle with the lands of the sheriffdom held *of* the castle.[3] In certain instances we even find the sheriffdom bearing the equivalent designation of *castellaria*, as, for example, in 1221, when Ayr, Rutherglen, and Lanark all appear as castellanies accompanying their castles in the dowry of Alexander II.'s queen[4]; and, even later, the term 'constabulary' seems, on more than one occasion, to be a convertible term for 'sheriffdom.'[5]

So close is this connection that at times the title *vicecomes* is given to the constable of the castle where there was no sheriffdom as such. In 1203 Alan of Clapham is described as 'sheriff' of Lauder,[6] and the *Chronicle of Lanercost* refers to the constable of Bothwell Castle as '*vicecomes* . . . *custos castri*.'[7]

[1] Cf. '*Robertus, senescallus Scotie, locum tenens domini nostri Regis, vicecomiti castri de Dunbertan*' (*Paisley*, p. 208).

[2] Cf. '*castrum Berwici ac vicecomitatus eiusdem*' (*E.R.* i. 279). In 1370 David II. granted a charter to Sir Robert Erskine of '*custodiam castri nostri de Stryvelyne cum officio vicecomitis ejusdem*' (*R.M.S.* i. 318). A similar feature is to be found in the case of baronies, as '*castrum de Wrrcharde* [*Urquhart*] *et baronia ejusdem*' (*R.M.S.* i. 405). (See the remarks by Riddell in *Peerage and Consistorial Law*, i. pp. 91-94, 109-110.) In England, under the Angevin administration, the same feature can be observed—'In the early part of the thirteenth century the clerks of the chancery evidently looked upon the custody of a castle as the chief work of a sheriff; for in the letters patent by which many sheriffs were appointed, the King grants the custody of a castle "together with" a county; the county being considered an appurtenance only to the castle. Thus on June 25, 1215, King John granted the custody of the castles of Norwich and Orford "together with" the counties of Norfolk and Suffolk to John Marshal to hold during the royal pleasure' (*Trans. Roy. Hist. Soc.*, New Series, xviii. 272). That the castle was regarded as a requisite *caput* is clear from David I.'s charter to Robert Bruce of Annandale (*L.C.* No. 54).

[3] Thus '*Tenetur ut de castro nostro de Rokesburgh per forinsecum servicium*' (*Rot. Scot.* i. 707*a*. Similarly in Bain's *Calendar*, iii. 1506).

[4] *Fœdera*, s.a.

[5] Cf. the 'constabulary' of Clackmannan (Calendar of Charters in Register House, No. 54), and the 'constable' of Kinross (*E.R.* i. 395). See also the notes on Haddington and Linlithgow, *supra*, pp. 352-356.

[6] *Kelso*, No. 143. Lauder was strictly the '*constabularia de Lawedre infra vicecomitatum de Berwyk*' (cf. *R.M.S.* i. 374).

[7] Bannatyne Club edn., p. 228. This 'sheriff' was Sir Walter Gilbertson, and Barbour is more correct in his designation of 'capitane' (*The Brus*, ix. 587-588). In 1301 Edmund de Mauleye is called 'sheriff of the New Castle on Ayr' at a time when we know that Patrick, Earl of Dunbar, was sheriff of the

In this early period sheriff and constable, sheriffdom and constabulary were almost equivalent terms.[1]

The organisation of the sheriff court, which was originally held at the castle, would, by its very nature, almost demand this. The sheriff court was the King's court of the sheriffdom. Suit to the court was paid by those lands which were held upon the military tenure of 'ward and relief.' And whether or not we can accept the late Dr. Neilson's interesting and ingenious theory that 'ward' in its origin was nothing else than castle-ward,[2] it is evident that the early sheriffdom consisted of those lands which owed suit to the court and service to the castle.[3] The lands were bound up with the castle, and both court duty and military service were bound up with the lands.[4] This is the pure form of feudal administration[5] which we should

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sheriffdom of Ayr (Bain's *Calendar*, ii. 1236, 1293); and in 1302 Sir Richard of Hastang is called 'sheriff,' and is to have ten men-at-arms and thirty foot to keep the castle and neighbourhood of Jedburgh, when he was only constable of Jedburgh under Robert of Hastang, sheriff of Roxburgh. (*Ibid.* 1317; also 1172, 1714.)

[1] Giry, writing of the Norman sheriff, states 'Le vicomte (vicecomes), qui avait été à l'origine un délégué (missus) du comte, n'avait pas tardé à devenir lui-même un seigneur. Ce titre fut très répandu dans la France féodale. Au nord . . . on préféra le titre de châtelain (castellanus) qui fut à peu près synonyme' (*Manuel de Diplomatique*, p. 329). See also Powicke, *Loss of Normandy*, p. 74.

[2] See the article on 'Tenure by Knight Service in Scotland' in *Juridical Review*, 1899. It would appear to be a reasonable argument to uphold that military tenure was called tenure by 'ward and relief' purely because military tenure alone was subject to the feudal incidents of wardship and of relief (*relevare hereditatem*). Craig seems to incline to this interpretation (*Jus Feudale*, i. x. 27). If we are to accept Dr. Neilson's theory, what explanation is to be given of the term 'relief'? Is it to be relief of those doing ward?

[3] This might account for the origin of the common phrase 'suit and service.' The detached nature of so many sheriffdoms (and baronies) in Scotland might have arisen in this way and might be likened to 'tenurial heterogeneity' in England. Later, however, other causes played their part. Lands were not infrequently severed from one sheriffdom and attached to another, leading to strange anomalies in suit of court; in some instances a hereditary sheriff annexed the scattered lands of his own barony to the lands of the sheriffdom.

[4] See *Vetus Arbroath*, No. [250].

[5] It may be that the mysterious '*castrensis provincia*' represents an early form of this organisation. In David I.'s confirmation charter to Dunfermline (1150×1152) he grants '*decimam mei can tocius castrensis prouincie*' (*Dunfermline*, No. 2; *L.C.* No. 209), and this grant is confirmed by subsequent charters to the monastery and repeated in papal bulls (*Dunfermline*, Nos. 35, 50, 74,

expect in Scotland; it is the counterpart of the Angevin châtellany.[1]

Against this simple reconstruction certain criticisms may be raised. It may be argued that it is too definitive for the period. But in Normandy a similar organisation had been in existence for some time, and in Scotland, although certain exceptions may be found, these only tend to prove, and not to disprove, that this administrative system was general. Mediæval feudalism, by its very nature, demanded an organisation which could be clearly defined.

Again, it may be suggested that castle-wards are only found in the south (as at Berwick, Roxburgh, Lanark, Edinburgh, Linlithgow, Haddington, Dumfries, and Stirling), and whilst it is admitted that only in these cases have we traces of subsequent payments in lieu of the duty, any argument that castle-ward was not paid elsewhere is demonstrably erroneous. In 1160 we find lands '*in provincia de Elgin*' granted by Malcolm IV. to Berowald in fee and heredity for a service '*faciendo michi inde seruicium unius militis in castello meo de Elgin*,'[2] showing not only castle-ward in the north but also, significantly, the use of the word '*provincia*' as in the case of the '*castrensis*

81). In the bull of 1163, however, the wording runs '*Totam decimam omnium dominicorum Regis in Striuelin 7 decimam redditus eiusdem burgi 7 tocius Can Regis eiusdem prouincie*' (*ibid.* No. 237; see also Nos. 239, 272). The connection of *castrensis provincia* with Stirling seems to be indubitable. Moreover, apart from any construction of phraseology, we find David I. issuing an earlier writ (1125 × 1147) to William, his sheriff of Stirling, that the monks of Dunfermline are to have all tithes and rights due to them (*ibid.* No. 6: *L.C.* No. 61), and from other charters we learn that Dunfermline had a right to half of the hides and fat of all beasts, killed for feasts at Stirling, between the Forth and Tay, to a *mansura* in Stirling, to the two churches of the town, and to a ploughgate of land adjoining one of them, etc. It seems reasonable to suggest that the *castrensis provincia* was the province of the castle of Stirling, and was probably the name given to the first constabulary or sheriffdom formed in Scotland under the system outlined above.

[1] Cf. Powicke, *op. cit.* 294 and note (4). Thus the two 'wards' of Lanarkshire may represent the two early constabularies from which 'wards' were due to the castles of Lanark and Rutherglen. Later, by a process of consolidation of which other instances will be noticed in the text, the two wards became the one sheriffdom of Lanark. In 1306, in a reference to the castle of St. Andrews and its 'temporality and castle-ward,' the phrase, which had doubtless passed through some transference of meaning, seems to indicate the lands protected by and within the jurisdiction of the castle (Bain's *Calendar*, ii. 1780).

[2] *Moray, Cartæ Originales*, No. 1; *Familie of Innes* (Spalding Club), pp. 2, 52. The charter was similarly confirmed by Alexander II. in 1226.

provincia.' David I.'s charter to Bruce of Annandale is without a *reddendo* clause,[1] but when William the Lion renewed the grant in 1166 the *reddendo* was '*per servitium x militum, excepta custodia castellorum meorum unde ipsum quietum clamavi.*'[2] Such clauses as '*libere et quiete ab omni exercitu & expedicione et ab omnibus auxiliis et geldis et ab omnibus operacionibus et wardis*'[3] seem clearly to indicate castle-ward, and in such clauses as '*pro omni alio servitio seculari castri warde relevio exactione seu demanda*'[4] there can be no doubt. As in England,[5] there seems to have been a general duty of service to castles, of repair of bridges, and of service in the army,[6] which was probably so general as to be understood, and which was therefore soon referred to only in exceptions.[7] Thus suit of court and castle-ward may have been the essential duties of all who held under the undefined '*servitium forinsecum*,'[8] and all lands

[1] *A.P.S.* i. 92.

[2] *National MSS. of Scotland*, I. xxxix; Bain's *Calendar*, i. 105; Fraser's *Annandale Book*, i. Nos. 101, 103.

[3] *Vetus Arbroath*, Nos. 67, 70, 89, 93, 94, 124.

[4] *A.P.S.* i. 580, No. 8. Cf. similarly *R.M.S.* i. 517; Fraser's *Scotts of Buccleuch*, ii. No. 11; *Reg. Hon. Morton*, ii. No. 126.

[5] See the remarks by Maitland in *Domesday Book and Beyond*, pp. 235-236.

[6] Cf. *Dunfermline*, Nos. 31, 49, 54; *Aberdeen*, ii. 267, 269.

[7] Compare the frequent exceptions '*saluo seruicio nostro*,' '*excepto communi auxilio Regis*,' '*excepto communi exercitu*,' '*defensione regni excepta*,' in grants made by the King to religious foundations. The *communis exercitus* was apparently different from the ordinary hosting and seems to have been the most important assembly of the nation in arms (cf. *Dunfermline*, No. 301). Similarly when lands were given to religious houses it is to be noted that the grantor usually undertook to perform the military service due. In the important charter printed by Neilson in *Juridical Review*, xi. 174, a knight's fee seems bound as such to do castle-ward, and the exemption in the *reddendo* to William the Lion's charter to Bruce (see above) provides confirmatory evidence.

[8] Maitland states that in Northumberland suit of court and castle-ward were considered as 'forinsec service' (*Eng. Hist. Rev.* v. 630), and a clause such as '*Faciendo . . . seruicium debitum et consuetum et seruicium forinsecum domino nostro Regi salua warda castri*' (*Reg. Hon. Morton*, ii. No. 126) shows that in Scotland castle-ward was an understood duty of those who held by '*servitium forinsecum.*' As late as 1514 we find '*forinsecum servitium unius architenentis uno die in anno apud castrum de Renfrew*' (*E.R.* xiv. 555), where the service has become nominal only. One might interpret the English 'burghal hidage' in a similar manner. Professor Morris recognises the possibility of some such original arrangement in England, but does not agree with Professor Chadwick that the burghal districts came 'in place of the counties' (see Morris, *Medieval English Sheriff*, 6-7; Chadwick, *Studies on Anglo-Saxon Institutions*, 204-208, 219-227; Maitland, *Domesday Book and Beyond*, 187, 502-506).

were probably held under an astricted military service to some particular castle.[1] Moreover, in the south, where castle-wards can be clearly traced,[2] it is to be noticed that they are due from *all* the baronies of the sheriffdom, and that all these baronies also owe suit of court.[3] The dual service is clearly seen in the *reddendo* 'sal pay the castel-warde and the soyte.'[4]

Finally, it may be asked if such an analysis of the origin of the sheriffdom can take account of the thanage system. The thanage in Scotland seems to be almost, but not quite, peculiar to *Scotia*—that is, the district north of the Forth—where, in the early feudal period, there was little tenure by barony.[5]

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[1] This, too, would account for the fact that land is described as '*tenetur ut de castro nostro de Rokesburgh per forinsecum servicium*' (*supra*, p. 371, *note* 3).

The connection of suit of court and castle-ward could probably be traced to some earlier and pre-feudal system under which only those who performed fighting service had the privilege of taking part in judgment, and in view of what has been said above it is worthy of note that at the trial between the monks of St. Serf and Sir Robert Burgonensis (1124 × 1136) the '*exercitus de Fyf*' and the '*exercitus episcopi*' were present and took part in the judgment (*St. Andrews*, p. 117; *L.C.* No. 80). The *exercitus* here probably consisted in each case of tenants holding by military service. It must, however, not be forgotten that the duty of 'ward' to some strong-point can be traced practically all over Europe in the pre-feudal period. That some such duty was incumbent in Scotland under the Celtic organisation seems to be clear. It would later be defined by feudalism; but it may also be that some pre-feudal military system existed in Scotland (*Scotia*) for some time along with the feudal system, and that this pre-feudal system is to be understood in a return of '*servitium Scoticanum*.'

[2] Possibly one reason for the clear survival of castle-ward in the cases of Berwick, Roxburgh, Lanark, Edinburgh, Linlithgow, Dumfries, and Stirling is that these were all important castles and probably more permanent structures than the rest of the King's castles, which were in many cases wooden buildings of a very temporary nature. The importance of the southern castles was demanded by their proximity to England, and is shown by the value which Edward I. attached to their possession. They are frequently referred to as 'castles' in a context which seems to distinguish them as such from other buildings of a military nature.

[3] Cf. *E.R.* i. 582; iii. 162, 164; v. 487, 642; vi. 55, 90, 539, etc. Similarly, in Northumberland in the thirteenth century, every lay barony but one was held by castle-ward and suit of court. (*Eng. Hist. Rev.* xxxv. 182.)

[4] *R.M.S.* ii. 473.

[5] Skene gives a list of sixty-three thanages in Scotland, of which three were south of the Forth, fifty between Forth and Spey, and ten beyond the Spey. (*Fordun*, Historians of Scotland edn., ii. 449.) The list can not be accepted as complete.

What the thanage was is a question still not definitely settled.[1] Such evidence as we possess points to a feudal origin, but it is not possible to prove that the thane was the Celtic *toisec* with his rights and duties more clearly defined, though such a theory has been advanced from time to time.[2] Feudal service was possibly introduced into Scotland as early as the reign of Malcolm II.,[3] and the thanage may represent one of its early forms. Fordun's account undoubtedly represents the traditional view of his time with regard to the administration of Scotland before the introduction of Norman feudalism. In his account he seems to say that Scotland had previously been divided into provinces and thanages, but that Malcolm II. leased it out to his soldiers: short tenures to yeomen, perpetual tenures to knights, thanes, and chiefs; in return, the King received military service and yearly rents from the lands, but since the rents brought him in too small a return, he demanded feudal aids in addition.[4] Fordun is an inveterate romancer, and his account, written towards the close of the fourteenth century, is but poor authority for events at the beginning of the eleventh. Nevertheless, the names of many thanages do seem to indicate English influence, and it may well be that there was an extensive English feudalisation[5] before Norman feudalism was introduced by Malcolm III. Moreover, the thanages, like the sheriffdoms, can be traced along the line of least resistance, wherever, in fact, the king had made his power felt and wished to secure his hold. The thanage was the strong-point, and since all the names of the

[1] Unfortunately we cannot accept the theory outlined by Robertson in *Historical Essays*, pp. 125 ff.

[2] Finlay, *Thane* of Glentilt, is also designated Finlay *Tosschach* (*Moray*, p. xxviii; Innes, *Scotch Legal Antiquities*, 80-81. See also the charters in Miscellaneous Transcripts, Register House, under dates 6 April 1434 and 2 June 1502). Spelman identifies the two in his *Glossary*, and Dr. Reid, the most recent writer on the Scottish thanage, supports the identification (*Eng. Hist. Rev.* xxxv. 179 *n.*).

[3] Cf. Anderson, *Early Sources of Scottish History*, i. 523 *n.*

[4] *Chronicle*, iv. 43.

[5] Thus 'waiting,' which seems to be a burden attached only to thanages, bears a remarkable resemblance to the '*firma unius noctis*' in England (cf. *E.R.* i. 12, 13, 16, 49, 50), and later, like the English *firma unius noctis*, is commuted into a fixed sum (cf. the entry '*De Aberkerdor liii. lib. vi. s. et viij. denar. scilicet. ij. "Weyting" vel xl. lib. et in denariis xiij. lib. vj. s. et viij. denarios*' in the '*Rentale Alexandri tertij*' in *Aberdeen*, i. p. 55).

thanages which have come down to us are the names of *places* and not of *districts*,[1] it is reasonable to suppose that the thanage was a unit bound up to a fortified place from which it took its name.[2] It is unthinkable that military service was completely dispensed with in this new organisation; the service was probably so inherent as to be tacitly understood.[3]

'Thane' was a term of wide application both in Scotland and in England,[4] but in the case of the thane who held a thanage the term is gradually losing its obscurity.[5] Such a man was a person of authority, his 'cro' was equivalent to that of an earl's son,[6] and his oath apparently nine-men-worthy.[7] He is ranked in 'byschoppis abbottis erlis baronis and thanys and all the communyte of the kynrik,'[8] whilst the equation of '*thanus et miles*' is not an infrequent one.[9] More pertinent to our inquiry, however, is the ease and frequency with which thanages were converted into baronies in the fourteenth century,[10] whilst as early as the twelfth century Richard of Hexham, in his account of David I.'s invasion of England and the Battle of the Standard, wrote 'So King David intrusted the siege of Wark to two of his thanes,—that is, of his barons,—with their

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[1] The 'Thane of Fife' can not be regarded as historical.

[2] Cf. the significant '*thanagium de Dyngvalt* [*Dingwall*] *cum castro*' (*R.M.S.* i. 741).

[3] Robert I.'s grant to Scone of the thanage of Scone was made in free alms but '*salua defensione regni nostri*' (*Scone*, No. 131; *A.P.S.* i. 512, No. 7). See *supra*, p. 374 and *note* (7).

[4] Cf. Maitland, *Domesday Book and Beyond*, pp. 161 ff. In Scotland it is frequently difficult to distinguish between the thane who held a thanage and the thane who was a humble *firmarius* holding a small plot of land by payment of a money rent (cf. the '*firmarii vel thayni*' in *Moray*, No. 34).

[5] See the important article on 'Barony and Thanage' by Dr. Rachel Reid in *Eng. Hist. Rev.* xxxv. 161 ff. It is not possible here to examine the relationship of thanage to king's demesne and of thane to king's steward (cf. *Hist. MSS. Comm.*, 3rd Report, p. 406; Buchanan states that 'by the prevalence of the English language, the name stewart was in many places substituted for thane'—Aikman's *Buchanan*, i. 342; and cf. the equation of '*in dominicis vel thanagiis domini regis*' with 'in the Kingis maynis or thanagis' in *A.P.S.* i. 399, c. 5).

[6] *Leges inter Brettos et Scotos* (*A.P.S.* i. 663).

[7] In the *Assise Regis David I.* if a thief escapes out of custody the lord of the prison '*iuret cum viginti septem hominibus et cum tribus thanis*' that the escape was not of his will and consent. (*A.P.S.* i. 320, c. 16.)

[8] *Assise Regis Willelmi*, c. 20 (*A.P.S.* i. 377).

[9] Cf. *A.P.S.* i. 398, c. 2.

[10] Cf. *R.M.S.* i. 339, 411, 523, 549, etc.

people.'[1] The thane had his court like the baron,[2] and an appeal for lack of justice therein followed the same channels as an appeal from the baron's court.[3] Recently, Dr. Rachel Reid has brought forward further valuable evidence to show that barony and thanage were of a like nature,[4] and, whilst there were undoubted distinctions, there is no evidence to show that where it existed the thanage was not a unit comparable to the barony and forming like the barony an integral part of the sheriffdom. Finally, that military service of some kind was demanded from the thanages is clear from the record made at Perth in the reign of Alexander II. '*de illis qui ab exercitu defuerunt.*'[5]

The existence of the thanage system, therefore, cannot be said to destroy our analysis of the origin of the sheriffdom in Scotland. The thanage of pre-Norman, or English, feudalism seems to have been the barony of Norman feudalism. Its dependence upon a castle or other fortified place helps to explain the development of Dingwall, Auchterarder, and Cromarty from thanages into sheriffdoms,[6] whilst its similarity to the barony accounts for the formation, for example, of the sheriffdom of Nairn, which was apparently composed entirely of thanages.

The castle long remained the centre of the sheriffdom, acting as the legal, administrative, and military *caput* for its scattered lands, and even as late as 1458 and 1459 we find the 'lands of the castle' used to indicate the lands of the sheriffdom.[7] But

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[1] A. O. Anderson, *Scottish Annals*, p. 189.

[2] *Scone*, No. 131 (*A.P.S.* i. 512, App. 7); *Moray*, No. 34.

[3] That is, from thane or baron court to sheriff court, and from sheriff court to the justiciar. Cf. *Moray*, No. 5 (*A.P.S.* i. 90), and see *supra*, p. 307 : 273.

[4] 'Barony and Thanage' in *Eng. Hist. Rev.* xxxv. 161 ff.

[5] *A.P.S.* i. 398. Is 'Scottish Service' (*Servitium Scoticanum*) to be identified with the military service due from thanages; and if so, did it, like *servitium forinsecum*, include suit of court and castle-ward? It may be that other service to the castle, *e.g.* victualling, was incumbent, or that 'Scottish Service' with the host was regarded as the definite alternative and equivalent to castle-ward. (Cf. the charter printed by Neilson in *Juridical Review*, xi. 174.) A claim that castle-ward was not rendered but that service was given in the host was brought forward by the holders by 'cornage' in Northumberland on more than one occasion.

[6] Compare the development of Renfrew from barony to sheriffdom.

[7] Cf. Inverness in *E.R.* vi. 475, 525, and the similar form in *Thanes of Cawdor*, 115 (noted *infra*, pp. 382-383).

long before the fifteenth century changes of adjustment had in many instances taken place. Small sheriffdoms which had been formed round castles not far removed from one another were united to form larger sheriffdoms and their castles placed under constables who were made responsible to the sheriffs of the new sheriffdoms. This is particularly evident in Fife. The sheriff of Dunfermline disappears; by 1212-13 the sheriff of Crail, Galfridus, has become sheriff of Fife, a larger unit [1]; the castles of Crail and Kinghorn are placed under constables responsible to the sheriff [2]; and the *caput* of the sheriffdom is moved to Cupar where, as early as 1239, the sheriff of the new sheriffdom held his court. Similarly in Perth. Perth and Scone, as we have seen, were originally separate sheriffdoms; but on 12 April 1228 William Blund is designated '*vicecomes de Perth et de Scon*,' [3] and Scone becomes '*infra vicecomitatum de Perth*.' Separate courts for the district of Gowrie are to be found as late as 1343,[4] though it is possible that they were sheriff courts of Perth held in Gowrie by a special depute,[5] and in 1359, in the chamberlain's account, Gowrie and Stormonth, although named as separate districts, are '*infra vicecomitatum de Perth*.' [6] In Lanarkshire, Rutherglen with its royal castle was possibly at one time the *caput* of a sheriffdom separate from Lanark, though the two 'wards' [7] later became the one sheriffdom of Lanarkshire.[8] The process was one of consolidation, and beginning certainly as early as the first decade of the thirteenth century it was still in progress in the sixteenth.[9]

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[1] *St. Andrews*, p. 316.

[2] Cf. *E.R.* i. 560, 561, 563. In 1359 the Chamberlain acknowledges receipt '*per' vicecomitem et constabularios suos de Fyff*' (*E.R.* ii. 4). In the present record we find the sheriff of Fife appointing a special mair and sergeand for the constabulary of Kinghorn (*supra*, p. 121).

[3] *St. Andrews*, p. 237.

[4] *Scone*, Nos. 130, 159.

[5] Cf. *E.R.* i. 18; and see *supra*, Intro. p. xvii. It is to be noticed, however, that Gowrie is referred to as a *vicecomitatus* in most of the grants of 'second tithes' to Scone (cf. *Scone*, Nos. 130, 135, 159).

[6] *E.R.* ii. 5.

[7] Possibly the districts from which 'wards' were due to the castles of Rutherglen and Lanark.

[8] See the paper on 'Dumfries' by the late Dr. Neilson in *Trans. Dumfries and Galloway Nat. Hist. and Antiq. Soc.*, February 1914. In 1361 we find the upper and lower wards of Lanarkshire (Clydesdale) paying separately towards the third contribution to David II.'s ransom (*E.R.* ii. 74, 75).

[9] See *supra*, p. 364 and *notes* 8 and 9. Probably this process of consolidation accounts for the disappearance of Auchterarder.

The *vicecomitatus*, therefore, can now no longer be identified with the *castellaria* or constabulary-lands of the King's castle. It has grown into something more, but also something more indefinite, and only the constabulary-lands of castles within the sheriffdom remain as limited feudal units.[1] But where the King's castle was newly built to hold a district newly won there can *vicecomitatus* and *castellaria* be identified, and, for a parallel reason, we find castle and sheriffdom closely identified in the south where the English might at any time invade the land. In the south the sheriff's military duties were at first of greater moment than either his judicial or his administrative; there castle and sheriffdom were still one; and there the sheriff was still sheriff and constable. In Edward I.'s Ordinance of 1305 it is worthy of note that the dual office of sheriff and constable occurs only at Dumbarton, Stirling, and Berwick [2]; and in the earliest extant *Exchequer Rolls* castle-wards are only referred to for castles in the south.[3]

In England, castle-wards had generally been commuted by the end of the thirteenth century,[4] and there is evidence that by the reign of Robert I. a similar arrangement had been reached in Scotland.[5] It is a mark of the decay of the old organisation that a money composition should be paid instead of personal service in the castle; a further mark of decay that such composition should be paid direct to the Exchequer, not to be devoted to the garrisoning or maintenance of the castle, but frequently to be given in alms to religious houses [6] or to be otherwise donated.[7]

The evolution of the sheriffdom, however, was not solely connected with the castle. There were important connecting-links between sheriffdom and burgh.

The erection of a royal castle usually led to the growth of a burgh round its walls.[8] Under the year 1197 the *Chronicle of*

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[1] Similarly in the Angevin administration, where the unit was the castellany, there was a definite tendency for the castellany to turn into a shire. (Cf. Powicke, *Loss of Normandy*, 51, 74.)

[2] *A.P.S.* i. 121.

[3] Stirling, Berwick, Edinburgh (*E.R* i. 112); Dumfries, Roxburgh (*E.R.* i. 205); Lanark (*E.R.* i. 582).

[4] Pollock and Maitland, *History of English Law* (2nd edn.), i. 279.

[5] Thus, the *Fratres Minores* of Lanark received 20 marks annually from the castle-wards of Lanark '*ex elimosina regis Roberti primi*' (*E.R.* vi. 102).

[6] *E.R. passim.*

[7] Cf. *E.R.* iii. 162, 164.

[8] In the charters of David I. there are frequent references to 'my burghs.' The burghs so referred to are Perth, Berwick, Roxburgh, Stirling, Haddington,

Melrose records '*Factum est novum oppidum inter Don et Ar*,' and within ten years William the Lion had granted a charter to the new burgh of Ayr which had arisen there.[1] We have already noticed that although the castle of Tarbert was only in process of erection in 1325, by 1328 a town had grown up around its walls, had become a royal burgh, and had obtained a cocket. The same development can be traced at Dumbarton, Dingwall, and elsewhere. It is not surprising, therefore, to find the burgh forming close connections with the castle and the sheriffdom, and tending further to consolidate the new administrative unit.[2] But here a word of warning is necessary. Although many of the early writs addressed to the localities are worded in the style '*David Rex Scottorum vicecomiti et praepositis de Striuelin*,'[3] it is possible that in this address the *praepositus* was not the burgh official but a reeve of the King's own domain[4]—probably a domain attached to his castle.[5] Nevertheless this *praepositura* (or royal domain) may have been

Elgin, Crail, Dunfermline, Linlithgow, Edinburgh, and Inverkeithing. It is important to note that there were royal castles at all these places (with the possible exception of Haddington), and that all (with the exception of Inverkeithing) were *capita* of sheriffdoms, of which four can be traced in the reign of David I. and three in the reign of Malcolm IV., whilst the remaining three can be assigned to one or other of those reigns.

[1] '*Sciatis presentes et futuri me ad novum castellum meum super Are burgum fecisse.*' (*Charters of Ayr*, No. 1.)

[2] Mackay Mackenzie, referring to a 'St. Norman's mercat' mentioned in the burgh charter of Cromarty, states that, whilst there never was a St. Norman, the fair was held 'directly beneath the walls of the old castle,' and that probably the name arose through the patronage and protection given to the fair by some early Norman holder of the castle. (*The Old Sheriffdom of Cromarty*, p. 18.)

[3] *Dunfermline*, No. 8 (*L.C.* No. 86). Similarly compare Berwick, in *L.C.* No. 154; Stirling, in *L.C.* Nos. 61, 143; Perth, in *L.C.* No. 248; Haddington, in *Dunfermline*, No. 65; Dumfries, in *Holyrood*, No. 74; etc.

[4] Cf. *Dunfermline*, No. 18 (*L.C.* No. 85) (1128×1136).

[5] Cf. the '*prepositura castri* [*de Forres*]' (*E.R.* i. 15); '*prepositura castelli de burgo de Elgyn*' (*Moray*, No. 40); '*prepositura castelli de Ulerin*' (*Moray*, No. 40). Similarly we find *praeposituraе* of Cromarty, Cullen and Eren (Auldearn?). All, it is to be noticed, are at castles of the King. See also *Familie of Innes*, pp. 54-56, and cf. Powicke, *Loss of Normandy*, p. 76. The '*terra prepositure*' of Banff (referred to in *Report on Municipal Corporations, Scotland*, i. 99) seems to be definitely a burghal district, and Mr. Ballard has shown that in England, except at Hereford and Dover, the burgh *praepositus* of Domesday was a subordinate of the sheriff (*Domesday Burghs*, 45-47).

co-extensive in many cases with the newly-formed constabulary or sheriffdom.[1]

Although in the *Leges Quatuor Burgorum* the castle is stated to be '*extra libertatem burgi*,'[2] the connection between castle and burgh is very close. At Inverness, William the Lion agreed with the burgesses that he would make the earthen dyke (*fossatum*) around the burgh provided the burgesses on their part would erect upon it a stout palisade and see to its upkeep thenceforward[3]; at the time of Haco's invasion we are told that the burgesses of Ayr owed service in the castle but failed to perform that service[4]; in 1162×1164 Malcolm IV. addressed a writ '*vicecomiti suo et burgensibus suis de Linlidcu et omnibus aliis probis hominibus suis de Linlidcuskir*'[5]; whilst there is an instruction of William the Lion's addressed '*vicecomiti meo et balliuis meis qui meum burgum de Karel tenebunt.*'[6] In the well-known case of Adam the Miller, the 'barons' (of the castle) act in co-operation with the burgesses —'*Barones vero jurati in omnibus concordant cum burgensibus juratis*,'[7] and as late as 1458 an agreement was ratified that the bailies of Dundee and the constable of the castle should sit together in judgment on the castle-hill in certain cases in which burgesses of the burgh had been arrested by the constable.[8] Probably also it is this connection which accounts for such forms as '*in curia vicecomitatus de Narn tenta per Johannem Rois vicecomitem deputatum dicti burgi*'[9] or '*presentibus ibidem Johanne Ogilwy aldermano et constabulario dicti burgi de Inuernes Johanne Athlyk Gilberto Waus et Johanne Cuthbert veteris castri*

[1] Chadwick points out that amidst the confusion of the Anglo-Saxon administrative system it would appear as though in some cases the royal estates with a village (later, a burgh) formed the centre and origin of the English shire. (*Anglo-Saxon Institutions*, chapter vii., especially pp. 236, 255-256). Haskins found himself unable to define the relationship between *vicecomitatus* and *præpositura* in Normandy, but inclined to the view expressed by Stapleton that they were probably convertible names for the same jurisdiction (*Norman Institutions*, 47).

[2] *A.P.S.* i. 356, c. 117.

[3] *Ibid.* i. 88.

[4] *E.R.* i. 6.

[5] *Scone*, No. 14.

[6] *St. Andrews*, 228-229.

[7] *A.P.S.* i. 98.

[8] *R.M.S.* ii. 615. In 1262 an inquest into lands in Montrose and the office of doorkeeper of the King's castle of Montrose was conducted by the sheriff of Forfar by seventeen barons '*et magna pars proborum burgensium de Munros*' (*A.P.S.* i. 100).

[9] *Thanes of Cawdor*, 113. The burgh of Nairn was not a burgh erected into a sheriffdom within itself.

burgensibus antefati burgi de Inuernys.'[1] Considering this connection in another aspect, we find that William the Lion exchanged certain lands '*apud Inuernaren*' with the Bishop of Moray '*ad firmandum in ea castellum et burgum de Inuernaren*'[2]; that the burgh of Dumbarton accounted for 6s. 8d. a term out of its burgh revenues for payment for watchers in the castle[3]; and that the gatekeeper of Stirling Castle received four marks annually from the fermes of the burgh.[4] Above all, it is not without significance that it is in the *Leges Quatuor Burgorum* alone that the forty days' service of castle-ward is to be found explicitly laid down in Scottish statutes.[5]

The relationship, however, extended still further. Castle and sheriffdom were inseparably knit together: the castle defended the sheriffdom, the sheriffdom maintained the castle[6];

[1] *Thanes of Cawdor*, 115. See *supra*, p. 378 and *note* 7. Mr. Malcolm, quoting a mandate in *A.P.S.* xii. Supp. 16, states that in 1372 the burgh of Cupar is described as '*Burgus sive Vicecomitatus de Cupar*' (*S.H.R.* xx. 132 *n.*). But the exact words of this mandate, which was addressed to the sheriff of Fife, of which sheriffdom Cupar had already been mentioned as the *caput*, are '*ne in Dicto burgo siue vicecomitatu vestro, aliqua regalitate siue libertatibus quibuscunque etc.*,' and from the general sense it seems to be clear that *sive* is used in a disjunctive and not a conjunctive sense. The editors of the Oxford edition of the *Dialogus de Scaccario* have pointed out that in mediaeval Latin it is not unusual to find even *et* used disjunctively (*op. cit.* p. 207).

[2] *Moray*, No. 25. [3] *E.R.* i. 161; ii. 25, etc. [4] *Ibid.* ii. 28.

[5] *A.P.S.* i. 339, c. 33. (Cf. the 'xl days wictualis' laid down in *Spalding Club Misc.* ii. p. 108, No. 7, though in such writs we find varying periods, and not always the old feudal one of 40 days.) It is further to be noted that where lands were granted on a *reddendo* of castle-ward it was also usual for a toft to be granted in the burgh (cf. *Familie of Innes*, 2, 52; *Moray*, Original Charters, No. 1; and see *A.P.S.* i. 101), and that when, in 1513, James, Earl of Arran, received a grant of the office of sheriff of Lanark he also received a tenement of land within the burgh of Lanark (*R.M.S.* ii. 3803). That is, the burgh possibly performed a military function in providing accommodation for the garrison of the castle, and that when the rural baron came each year to do his military service in the castle, or sent his men to do that service, he or his men could dwell in the house and toft within the burgh during the forty days of castle-ward. In England, Ballard has shown that castle-guard meant not only garrison service but also the maintenance of houses within the castle which were not merely temporary lodgings for soldiers but 'part and parcel of the manors which were liable for their support,' just as in the same way the landowners who, in the eleventh century, owed burh-bot to Oxford kept 'mural mansions' within the city (*Eng. Hist. Rev.* xxv. 712-715).

[6] Cf. Maitland, *Township and Borough*, 37. Miss Bateson points out that at 'Shrewsbury a payment towards the repair of the borough walls was long levied

the lands of the sheriffdom gave ward to the castle, but the lands of the sheriffdom likewise provisioned it.[1] The castle was the place of refuge in time of trouble [2]; it was the local prison [3]; it was the repository for record. In Wales, Dr. Lewis has shown that there was a 'dawnbwyd' (*staurum castrorum*) which was a levy of victuals supplied by the neighbourhood to support the castle, and further, that this district often corresponded with the market-district of the burgh adjoining the castle.[4] In Scotland, in considering the interconnection of castle, burgh, and sheriffdom, we find an almost parallel relation. The district which supports the castle and which is defended by the castle is the district over which the burgh adjoining the castle has certain privileges of trade; the district is the *vicecomitatus*. The head burgh which had grown up around the walls of the King's castle, the *caput* of the sheriffdom, soon obtained a grant of a 'trade-precinct,' *i.e.* a monopoly of certain trade, and also frequently a monopoly of keeping taverns, extending over the bounds of the sheriffdom.[5] Such a grant can be clearly traced in the cases of Aberdeen,[6] Perth,[7] Inverness,[8] Stirling,[9] Dundee,[10]

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on the county, and in the fifteenth century Hereford still acknowledged its responsibility for the protection of the county residents above the rank of cottier' (*Mediaeval England*, 33). In the Domesday Survey we find that the walls and bridge of Chester were maintained by the whole county, '*de unaquaque hida comitatus unum hominem*' (Stubbs, *Select Charters*, 9th edn., 105).

[1] Thus, in 1359, the sheriff of Stirling debits himself '*in partem sustentacionis castri de Striuelyn, capientis per annum, de exitibus dicti vicecomitatus, iiij^{xx} li.*' (*E.R.* i. 577.) See also *R.M.S.* i. 318, 554. In the case of Dumbarton, special arrangements for its upkeep and provision were made from time to time (cf. *Paisley*, p. 208). Probably of similar import are such exemptions as '*Item, quod homines predicte baronie non debent respondere ad victualia custodis patrie justiciarii nec vicecomitis*' (*R.M.S.* i. 192).

[2] Cf. *Holyrood*, No. 102; *Melrose*, i. No. 34; Bain's *Calendar*, ii. 1733.

[3] *E.R.* i. 36, 40.

[4] *Mediaeval Boroughs of Snowdonia*, 26-28, 171, 173.

[5] See A. Ballard, 'The Theory of the Scottish Burgh' in *S.H.R.* xiii. 16-17. The writer, however, does not seem to notice the significance of the sheriffdom as the area of the precinct.

[6] *Aberdeen Charters*, No. 3; *A.P.S.* i. 87.

[7] *A.P.S.* i. 86. [8] *Ibid.* i. 88.

[9] *Stirling Charters*, No. 7; *R.M.S.* ix. 1028 (November 1641).

[10] By charter of 1327, reaffirming earlier custom as pronounced by a recognition of 1325, granted trade privileges over the sheriffdom of Forfar (*Report on Municipal Corporations, Scotland*, 1835, App. II. pp. 238-239). Cf. *R.M.S.* i. App. i. 134.

Edinburgh,[1] Rutherglen,[2] Peebles,[3] Renfrew,[4] Ayr,[5] and Haddington[6]; and in some instances it continued into the sixteenth century.[7] Later, when a new royal burgh was created it generally had a smaller district of its own assigned to it, a district taken from that previously assigned to the head burgh. These later grants were the cause of frequent friction between burghs,[8] whilst at the same time they tended to obscure the real origin of the arrangement.

Finally, it must be noted that in this well-organised administrative system there was also a connecting link with the Church. In Iceland, where there was an almost pure feudal system, the *Goðorð*, like the Scottish sheriffdom, was an artificial administrative unit, composed of 'þingmen' who owed both military service and suit of court. But the *Goðorð* was also an ecclesiastical unit with its own priest and temple. And there appears to have been some similar ecclesiastical unity in the early Scottish sheriffdom. The *Assise Regis David I.* seems to contemplate a bishop and an earl for each sheriffdom,[9] whilst a writ such as that of Malcolm IV. addressed '*vicecomiti suo et burgensibus suis de Linlidcu et omnibus aliis probis hominibus suis de Linlidcuskir*'[10] seems to

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[1] Cf. Cosmo Innes, *Scotland in Middle Ages*, 159-160.

[2] *A.P.S.* i. 86. For Rutherglen as a sheriffdom see *supra*, p. 379.

[3] James VI. in a charter to Peebles, dated 1621, reaffirmed the charters of preceding kings and confirmed to it trading privileges '*infra integras bondas vicecomitatus nostri de Peblis tam regalitatis quam regalis.*' (*Charters and Docs. of Peebles*, Burgh Rec. Soc., i. 85.)

[4] At first enjoyed the privilege within the barony, later within the sheriffdom when erected (cf. *R.M.S.* iii. 2705).

[5] By charter of William the Lion granted privileges of trade over a district set out which can be shown to have been practically coextensive with the modern sheriffdom. (*Charters of Ayr*, No. 1.)

[6] Before 1370 had a monopoly of trade in staple and foreign goods throughout the constabulary. (*Report on Municipal Corporations, Scotland*, s.v. *Haddington.*)

[7] It is to be noted, as emphasising the contrast between the origin of the sheriffdom in Scotland and the county in England, that in England such grants of trade privilege were rare, were never given for so large an area as the sheriffdom, and apparently ceased in the thirteenth century (*S.H.R.* xiii. 25).

[8] Cf. Pagan, *Convention of Royal Burghs of Scotland*, pp. 4-5.

[9] *A.P.S.* i. 322, c. 25. Cf. in England Edgar's *Secular Ordinance*, c. 5 '[and in the year let there be held] twice a shire-gemot; and let there be present the bishop of the shire and the ealdorman, and there both expound as well the law of God as the secular law.' 959×962. (Stubbs, *Select Charters*, 83.)

[10] *Scone*, No. 14.

indicate that in such instances the ecclesiastical unit, the 'shire,' was coextensive with the jurisdiction of the sheriff.[1]

The 'shire,' however, was merely the parish, and it would be more natural to expect a closer unity between bishopric and sheriffdom when the various dioceses were formed, and when the sheriffdom had become more than a small unit of land attached to the King's castle, though such a connection could admittedly only obtain in a limited number of cases. Thus, when the new sheriffdom of Argyle was erected it is possible that a new bishopric of Argyle was formed also,[2] and in 1504 the new sheriffdoms of Ross and Caithness were made co-extensive with the respective dioceses [3]; similarly, the rural deaneries of the bishopric of Aberdeen—Mar, Buchan, Garioch, Aberdeen, and Boyne—correspond significantly with the 'quarters' of the sheriffdom.[4]

But the closest connecting-link was that which was afforded by the system of 'second-tithes.' Professor Haskins has shown that in the Angevin administration of Normandy it was a customary practice to assign the tithe of a *vicomté* to a religious house,[5] and in Scotland a 'second-tithe' to a religious foundation was granted from many sheriffdoms. Briefly, the second-tithe (*secundæ decimæ*, *decimus denarius*, or 'tend penny'), which was probably so-called to distinguish it from the ordinary tithes (*decimæ garbales* or *decimæ fœni*),[6] was a grant made to a religious foundation of one-eighth or one-tenth of the feudal casualties and profits of justice arising within the sheriffdom. It is not possible to discuss here the various aspects of this tithe, and it must suffice to point out the number of sheriffdoms in which it can be traced, thereby indicating the close connection in the sheriffdom between the civil and the ecclesiastical authority.

The Abbey of Scone originally received one-tenth of the fines and escheats of the sheriff courts held in Gowrie [7]: later,

[1] Similarly compare '*Hadigtunes scyra*' in *L.C.* No. 260 and '*Striuelinshire*' in *L.C.* No. 93.

[2] Cf. Robertson, *Scotland under her Early Kings*, ii. 17.

[3] *A.P.S.* ii. 242*a*. In 1525 we find a statement that the extent of the sheriffdom of Caithness is the extent of the bishopric (*E.R.* xv. 639).

[4] *E.R.* ii. 35-36. In a like manner Fothrif seems to have been an early 'quarter' of Fife (cf. *R.M.S.* i. 218).

[5] *Eng. Hist. Rev.* xxiv. 224-225; *Norman Institutions*, 108.

[6] But see Dowden's suggestion in *Lindores* (Scot. Hist. Soc.), Intro. lxv.

[7] *Scone*, No. 130; *E.R.* i. 18.

the grant was confirmed by James I. as '*secundæ decimæ lucrorum . . . infra vicecomitatum de Perth*'[1]; the Prior and Canons of Restennet received one-tenth of the issues of the sheriff court of Forfar[2]; the Bishop of Aberdeen received one-tenth from the sheriff courts of Aberdeen and Banff,[3] the early grant being a tenth of the royal revenues between the waters of Dee and Spey[4]; the Bishop of Brechin received one-tenth from the sheriff court of Kincardine[5]; the Bishop of Moray received one-tenth from all courts held within his see[6]; the Abbey of Dunfermline received one-eighth from the sheriff court of Fife[7]; the Abbey of Holyrood received one-tenth from the courts of Edinburgh and Haddington[8]; the Bishop of Glasgow received in the reign of David I. a grant of '*octauum denarium de omnibus placitis meis per totam Cumbriam . . . aut in denariis aut pecunia*,'[9] but later the grant was more specifically defined as an eighth '*de placitis regis que fiunt in episcopatu tuo*'[10]; and the Abbot of Stirling had originally a grant of one-tenth of all pleas and issues of the King '*de Striueling, et de Striuelingschire, et de Kalenter*,'[11] until in 1207×1214 William the Lion made an exchange of the church of Forteviot, with its chapels, lands, and tithes, in return for the surrender of this 'second-tithe.'[12]

In considering these grants of 'second-tithes,' moreover, it

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[1] *Scone*, No. 198. It is to be noted, however, that one-tenth of the profits of justice in Strathearn and Stormonth went to the Bishop of Dunkeld (*E.R.* i. 18).

[2] *E.R.* i. 9, 592.

[3] *Aberdeen, passim*; *E.R.* i. 11, 15, etc.

[4] *Aberdeen*, i. 5-6. Cf. the grant of 1221 (*ibid.* i. 18).

[5] *E.R.* i. 13; *Brechin*, i. Nos. 25, 104.

[6] *E.R.* i. 20; *Moray*, Nos. 2, 17, 142. The specification of the see is important.

[7] *E.R.* i. 4; *Dunfermline*, Nos. 1, 78, 79, 426.

[8] *E.R.* i. 24, 32, 43; vi. 145-146. In one charter to Holyrood the grant is stated to be one-tenth of all pleas in courts held '*ab avin flumine usque colbrandespeth*,' and in another '*inter Aquas de creth et de Nith*' (*Holyrood*, Nos. 27, 94); whilst once we find '*que proueniunt de Hadintunscire*' (*ibid.* No. 20). In 1383 the grant is referred to as a tenth from the issues of the King's courts '*infra Laudoniam*' (*E.R.* iii. 668), which seems to include Linlithgow, certainly for Chamberlain Ayrs.

[9] *Glasgow*, i. No. 10; *L.C.* No. 126.

[10] *Glasgow*, i. No. 24; cf. also *ibid.* i. No. 14, and *E.R.* i. 16, 17, 37. This specification of the bishopric is important.

[11] *Cambuskenneth*, No. 57 (*L.C.* No. 235) (1147×1153); see also *Cambuskenneth*, Nos. 26, 52, 60.

[12] *Ibid.* No. 100.

should be remembered that they were granted not only from the issues of the sheriff courts but also from other feudal casualties and from the issues of other royal courts held *within the sheriffdom* [1] or *within the bounds of the lands attached to the religious foundation* to which the grant was made.[2] The grants seem to have been made in almost all cases in the reign of David I., and must be regarded, not as part of that ecclesiastical munificence which made him a 'sair sanct for the crown,' but as part of his administrative policy and as an attempt to identify an ecclesiastical unit with the new civil units which were being formed in the localities.

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[1] Thus, the grant to Dunfermline is later clearly defined as '*octauam partem lucrorum 7 finium ad regiam maiestatem spectantium . . . infra vicecomitatum de fyffe*' (*Dunfermline*, No. 426), and that to Restennet as of courts held '*infra vicecomitatum de Forfar*' (*E.R.* ii. 438, 503).

[2] For example, Aberdeen '*infra episcopatum suum*' (*E.R.* ii. 463). Similarly it is to be noted that before the erection of the sheriffdoms the Bishops of Ross and Caithness received one-tenth from the royal issues arising within their respective sees (*E.R.* i. 13, 19).

APPENDIX E

JURY SERVICE

THE men who sat upon criminal assizes, as, for example, in actions of theft or slaughter, were usually drawn from the locality or *venue* of the crime.[1] In the case of inquests empanelled for the service of brieves, however, no such principle was observed. The brieve laid down that service should be made *per probos et fideles homines patriæ, per quos rei veritas melius sciri poterit*,[2] and these 'inquests' as opposed to 'assizes'[3] reveal upon analysis interesting features in the incidence of service.

In the present record altogether forty-nine inquests were empanelled, principally for the service of heirs, and, although these inquests contain in all exactly seven hundred members, only one hundred and seventy-seven names occur. Of these one hundred and seventy-seven jurors, moreover, seventy-two sat once only and twenty-eight twice, whilst out of the remaining seventy-seven, one juror is to be found on thirty-five inquests out of the forty-nine and several others on twenty inquests or more. The later Fife Sheriff Court Books, preserved at Cupar-Fife, yield upon examination similar results. In fourteen inquests recorded for the period February 1563/4 to February 1564/5 the duty is performed by one hundred and twenty-two men, yet one juror sat on six inquests, two on five, six on four, eight on three, and thirteen on two. The transcripts made by Dr. Littlejohn from the Aberdeen Sheriff Court Books reveal the same peculiarity of service. For the period 1503-1511 Dr. Littlejohn prints twenty inquests.[4] In these

[1] Cf. the assize *supra*, p. 15. The absence of territorial designations, as, for example, in the assizes *supra*, pp. 192, 214, 222, 266, is almost certainly indicative of local men.

[2] See the brieves printed *B.P.* 644, 648.

[3] The distinction between 'assizes' and 'inquests' here adopted is that referred to *supra*, Intro. p. ci.

[4] *L.A.R.* i. 47-118.

lists (which were obviously selected by the editor for no reason relevant to these calculations) it is noticeable that only ninety names occur, although some of the inquests numbered as many as twenty-four. Of these ninety men, two served on twelve inquests out of the twenty, two on eleven, two on nine, three on eight, four on seven, and six on six. Other records, for example those of the burgh courts, show that this inequality of service was widespread and customary.

These men who performed such a large share of jury service were undoubtedly men of importance within the sheriffdom. If the more frequent sitters in the present record are tabulated we find that excluding criminal assizes

Alexander Lochmalony of that Ilk	sat	35	times.
David Tulloch of Hillcairnie	,,	29	,,
John Clephane of Carslogie	,,	24	,,
Alexander Sibbald of Rankeilour	,,	23	,,
Alexander Schethum of Skelpie	,,	23	,,
John Hay of Foodie	,,	22	,,
Thomas Barclay of Rhynd	,,	18	,,

whilst Sir Peter Crichton of Naughton served on nine inquests, George Dishington of Ardross on ten, and Alexander Auchmuty of that Ilk on nine. In two cases we find sons carrying on the tradition of service. John Rankeilour of that Ilk was served heir to his father in January 1519/20[1] and thereafter sat on three inquests out of a possible twelve, whilst his father had sat on twelve out of a possible twenty-four; Charles Ramsay of Foxton sat on four inquests out of a possible twelve, whilst his son, Francis Ramsay, who was served heir in October 1517,[2] thereafter sat on twenty consecutive inquests as from May 1518. In the later Fife Records, to which reference has already been made, a Lochmalony of that Ilk and a Sibbald of Rankeilour are still among the most frequent sitters.

No proof can be adduced to show that this incidence of service was due to a burden that came to rest on certain lands, for, so far as can be traced from the charters in the *Register of the Great Seal*, it is entirely inconsistent with the stipulated duty of suit of court.[3] Neither can it be said that these men came from the near neighbourhood of the *caput* of the sheriffdom. Admittedly

[1] *Supra*, p. 166. [2] *Supra*, p. 87.

[3] The Sibbalds of Rankeilour, for example, held by a service of suit to the three head courts. Cf. *R.M.S.* iii. 2167 (1540).

Lochmalony, Hillcairnie, Rankeilour, Carslogie, Foxton, Skelpie, and Foodie are all in the neighbourhood of Cupar, and in such cases the burden of frequent service would not be a vexatious one. But any argument of geographical proximity falls through when the map is examined for Ardross and Auchmuty or, in lesser degree, Naughton or Rhynd; whilst many places not far removed from the *caput* are to be found represented on only one or two inquests in the whole record.

Popular belief associates with the Scottish character a love of litigation and the forms of law, and possibly these ardent jurors attended the majority of courts through interest or pleasure. On the other hand, since in all cases such frequent attenders were important lairds, they may have felt that their position demanded their presence. Whatever the cause, constant attendance would make them well acquainted with the law and legal procedure, and hence their services would be in frequent demand by the presenters of brieves, providing in some measure a safeguard against appeal upon technical points. Again, the sheriff and his officers had no small part in the choice of each jury (unless specific enumeration was made in the brieve itself), and it may be that this involved undue burdens upon the more influential lairds. Thus the importunity of parties, and the neglect of officers who were content to summon only men well known to them,[1] would tend to perpetuate the maldistribution of service.

In the sheriff courts the burden was apparently willingly performed, since the records show no evidence of complaint. Moreover, during the period under review exemptions from jury-service were freely given, and such influential lairds could doubtless have obtained exemption with ease.[2] As it was, these men would stand out amidst the small freeholders and suitors of the court, and would give to the assembly an importance and dignity which would have been otherwise denied.

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[1] Cf. *Justiciary Records* (Scot. Hist. Soc.), ii. 63.

[2] Cf. *R.S.S. passim.* It is to be noted that many of the persons who obtained exemptions were such as were 'maist meit to pas upoun assyissis and inqueistis in respect of thair knawlege discretioun and judgement in sic caissis.' (*R.P.C.* iii. 544.)

APPENDIX F

THE PERQUISITES OF THE MAIR OF FEE [1]

The principal Mairs of Fee 'haue bene in vse be thame selfis and thair deputes in attaching and summonding of all personis be vertew of the preceptis direct thairapone to the haill schirefcourtis justiceaeris or iustice courtis be commissioun And in vplifting and in receaving thairfoir for euerie attacheing maid within burgh the soume of sex schillingis viij penneis and for citationis maid in landwart sic as of inquestis assyses or for quhatsumeuir vther executioun being ane dayis jorney on hors the soume of xxvj s. viij d. And alsua in vse and possessioun in poynding vpone the schireffis haill decreittis/vptaking of thair vnlawis and in vptaking of the iustice vnlawis and putting of the extractis of the iustice airis to executioun And in vptaking and receaving thairfoir of ilk pund poyndit twa schillingis And als in vse and possessioun onlie / and na vtheris in aresting and lowsing of cornis and vtheris gudes and geir quhatsumeuer be vptaking of cautioun for lousing thairof be vertew of preceptis direct thairapone as vse is and in receaving thairfoir within the burgh or twa myles about sex s. viij d. and ane dayis jornay thairfor xxvj s. viij d. And likewise in vse to tak souirtie for the entrie of all personis chargeit to vndirly the law befoir the said schiref or his deputes And in receaving thairfoir being within burgh sex s. viij d. And for ane dayis jornay on hors xxvj s. viij d. And fra ilk persone findand cautioun xl d. And als in vse to charge all personis to find lauborrowis and to tak lauborrowis be vertew of preceptis and in receaving thairfoir within burght sex s. viij d. and ane dayis jornay

[1] This extract, showing the 'feis privilegis casualiteis and dewiteis pertenand and belanging' to the office of 'principall Mair of Fee of heretage of the schirefdome of Abirdene' is taken from a decreet of the Lords of Council given in 1589. The decreet is printed at length in *Illustrations of the Topography and Antiquities of the Shires of Aberdeen and Banff* (Spalding Club), iii. 188-191. (See also *A.P.S.* vii. 442, c. 105.)

on hors xxvj s. viij d. And fra ilk persone findand laubor-rowis xl d. And inlikemaner in vse of proclaiming of schereffis preceptis iustice airis iustice courtis be commis-sioun at the mercat croces of the said schirefdome for ilk proclamatioun within the burgh of Abirdene xl d. And in receaving fra ilk persone panneilit within the tolbuith befoir the schiref or his deputes/befoir the iustice or his deputes xl d. And siclike in vse and possessioun to be onlie creat sergeandis officeris and executouris and na vtheris in all schiref or iustice courtis be commissioun grantit vpon quhatsumeuir causs criminall or ciuill within the said schirefdome. And mairouer in vse of geving of all sasingis within the said schirefdome and in receaving for euerie sasing at the geving thairof sex s. viij d. and for euerie dayis jorney being in landwert or about the toun xxvj s. viij d. And als in vptaking and receaving of all personis vmaist claith quha puttis thame selfis to death and that ar convict in the schiref courtis justice airis iustice courtis or chalmerlane airis or courtis be commissioun or vtherwise with-out the samin and in intrometting with and receaving of thair haill gudes and geir beand fra the crukeben thair haill cornis being in brokine stakkis in the yarde and thair haill cornis being in brokin mowis in the barne and thraschin cornis being in heippis thairin with their haill blak scheip and garrit nolt And siclike in vse and possessioun to be present at all tymes with the schiref iustice and thair deputes the tyme of thair intromissioun and vptakeing of all personis gudes and geir fugitiue fra the lawes or convict be ordour of iustice befoir the saidis judges for quhatsumeuir caus alsweill for intrometting with thair awin dewiteis as for intrometting with dewiteis per-teining to the schiref iustice or thair deputes. And likewise in vse to be present with the iustice clerkis to tak up dittay and in thair absence to tak up the same dittay and to haue the onlie custodie of the haill blude rollis and in vse of taking of caution for the entrie of all personis thairin contenit and in receaving for the entrie of ilk persone xl d. And mairouer thair deputes ar in vse of proclameing of all brevis at the mercat croce of the said schirefdome and in vptaking thairfoir xl d. quhairof the heretabill Mair of Fee hes of ilk breve proclamit xvj d. And finalie in vse of collecting of all taxatiounis within the said schirefdome of Aberdene and na vtheris and in making of compt thairof to the thesaurer and in receaving of xij d. for ilk pund of the samin.'

APPENDIX G

THE TAXT ROLL OF FIFE, 1517 [1]

Hæc inquisitio facta in curia Vice-comitis [*l. vicecomitatus*] de Fife, tenta in prætorio burgi de Cupro, per nobilem dominum, Patricium, dominum Lindsay de Byres, et Johannem, magistrum Lindsay de Pitcruvie militem, Vicecomites de Fife: de mandato supremi domini nostri regis, per literas suas patentes sub signeto, Vice-comiti et deputatis suis de Fife desuper direct.

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[1] This roll is printed from Sibbald's *History of Fife and Kinross* (Cupar, 1803), pp. 200-206. The taxation is clearly the same as that referred to in the text (*supra*, pp. 62-63 and Notes pp. 293-294), the court is the same court, and the inquest is the same as that for the court (*supra*, p. 60) with the addition of eleven new members, making twenty-four in all. A similar roll is to be found in the Haddington Collections (MS. National Lib.), folios 46 *et seq.*, and also one in Purves' *Revenue of the Scottish Crown* (ed. Rose), pp. 151-157, though there are many differences in the enumeration of the lands and their values. In printing the roll no attempt has been made to correct Sibbald's numerous misreadings of the place-names.

The preparation of such taxt rolls was part of the sheriff's duty (*supra*, Intro. p. xlviii, *note* 2), and the following extract, under date 23 December 1552, from the Linlithgow Sheriff Court Book, 1541-1561 (MS. Reg. Ho.), is given to show the procedure which was adopted. Three points are noteworthy—(i) the taxations were upon 'old extent'; (ii) church lands were included; (iii) the basis adopted was 'xl merk land of auld extent,' and old taxt rolls as well as retours were employed.

'The quhilk day the schiref deput forsaid schew and producit our souerane Ladeis lettres under hir signet chargeing the schiref of Linlithgw and his deputis to convene the frehaldaris lordis erlis baronis & landit men within the said schirefdom to comper befor thame at sic dais & places as sall plese the said schiref and his deputis to assigne to thame for makin of ane Just roll of taxatione of euery manis land within the said schirefdom alsueill of our souerane ladeis landis as temporall and spirituale menis landis ward landis terce & coniunctfe landis & land In nonentres and of euery xl merk land of auld extent to furniss ane sufficient able man weill bodyn with Jak of plait steill bonet sleuis of malȝe & speir of sex elnis lang or therby under the pane of rebellione as at mair lenth Is contenit In the saidis lettres Be vertew of the quhilk the schiref deput forsaide direct his precept and therwith causit summond the erlis lordis baronis & frehaldaris of the said schirefdom to comper befor thame this Ilk

Die ultimo mensis Martii, anno Domini 1517. per hos subscriptos, viz.

Andream Murray de Balvaird milit.
Georgium Dischington de Ardross.
Jacobum Lundin de Balgony.
Joan. Wardlaw de Torrie.
And. Seaton de Parbroth.
David. Stewart de Rasayth.
David. Barclay de Cullernie.
Thomam Forrester de Strathenry.
Johan. Malvil de Carnbie.
Johan. Trail de Blebo.
Thom. Lumisdean de Conland.
Johan. Clephan de Carslogie.
Georg. Strang de Balcaskie.
Joan. Schevez de Kemback.
Alexand. Auchmoutie de eodem.
Willielmum Monipenny de Pitmilly.
Johan. Rankeilor de eodem.
David. Barclay de Touch.
Joan. Hay de Foodie.
Alexand. Lochmalonie de eodem.
Thom. Dischington, Capitanum Palatii S. Andreæ.
Johann. Forrester de le Newtoun.
Joan. Seaton de Balbirnie.
David. Tullie de Hillicairnie.

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day befor writtin as day assignit to thame for makin of the said taxt roll and thareftir chesit ane condigne Inquest of the personis afor namit & causit thame to be suorne to mak ane Just roll of taxatione of the euery xl merk land of auld extent/quhilkis being at lenth weill & riplie auisit with retouris of ane part of the said landis togidder with ane auld roll of taxatione thai mak thar Just roll of taxatione & adiunct the landis togidder quhill thai maid xl merk land of auld extent of the landis of the said schirefdom as eftir followis . . .' (f. 238*v*). (A similar taxation is to be found in the same volume, ff. 30-31, under date 23 February 1554/5, though there the basis is 'euery pund land of auld extent.')

Following the taxation of 1552, it is interesting to note two protestations:

'Matho Hammiltone of milburne In Name & behalf of the Inqueist forsaid askit Instrumentis except the lard of dundas and protestit that thai Incurrit Na errour for the retouring of the quenis propirtie becaus thai war neuir retourit of befor nor 3it Na euident producit nor schawin to that effect quharby that thai mycht auise tharwith.

James dundas of that Ilk askit Instrumentis that he wald nocht retour Na landis pertening to the quenis grace ony better cheip nor of euery xvj oxingang of land to be stentit to xl land of auld extent.'

Qui jurati dicunt quod terræ Vice-comitatus de Fife hæreditarie possess. per barones, libere tenentes, vassallos, vel tenentes regis, ecclesiæ, seu aliorum superiorum quorumcunque, extendunt ad summas subsequentes, juxta extentum vetus earundem.

Edin Quarter

	lib.	*s.*
The Barony of Aringosk	5	0
Kilgospertie	2	0
Katochle	1	0
The half of Binn	1	0
Little Aringosk	0	10
Balcanquell	3	0
Pittuncarlie and Leaden Urquhal	3	0
The East part of Strathmiglo	3	0
Pitlowre Easter	3	0
Pitlowre Wester	3	0
Demperstoun with Layng's Land and the Annual	9	0
Ridie	1	0
Wester-Dron	4	0
Hill-Dron	1	0
The Barony of Balinbriech in property; Balinbriech, Higham, Glenduckie, Logie, Fliskmilln, and Kirk-Flisk	47	0

The Tenendries of the same, viz.

Dunbolg	10	0
Cullernie	5	0
Balmedieside	4	0
Pitauchop	2	0
Balhelvie	3	0
Drumbarrow	4	0
The two parts of Cosie	3	0
Lumbennie Easter	3	0
Lumbennie Wester	3	0
Pitcairlie	4	0
Mugdrum	1	0
Balmedie	2	0
Parbroth, and Lindiffren-Seaton	8	0
Lindiffren-Barclay	1	0
Lochmalonie	2	0
Criech	4	0
Mountwhannie with the annual of Easterfernie	10	0
The two Kinsliefs	5	0
Myrecairnie	5	0
Pitblado	5	0
Hillcairnie	5	0
Kilmaron	5	0
Torr	1	0
Lillock	1	0
Mount	4	0
Kingask	2	0
Pittincrief	3	0
Foxtoun	4	0
Wester-Fernie	10	0
Drumclochup	1	0
Nether Rankeilor	2	0
Over Rankeilor	5	0
Kilquhiss	1	0
Carslogie	5	0
Easter-Forret with the annual	10	0
Wester-Forret	5	0
Tor-Cathlock with the annual	4	0
Tor-Forret	1	0
Nether Cathlock	4	0

	lib.	s.
Kittitie and Craigs Unquhar	4	0
Cruvie, Brigghouse, and Logie	6	0
The Barony of Cruvie in property	24	0
Luklaw	2	0
Southield	1	10
Seygie with the annual	4	0
Leuchars-Ramsay in property	8	0
Leuchars - Monipenny in property	8	0
Brackmount	3	0
Moncur his lands	1	10
Pusk	1	10
Leuchars Weems	10	0
The Rynd	1	0
Fains-Lands	3	0
Strath-henry's Lands	1	0
The quarter of Muirton in the Keips-head	1	0
The Barony of Nachtoun in property	8	0
Wormet	3	0
Saintford Hay	2	0
Saldhane	1	0
Little Friertoun	1	0
Innerdivot Lightoun	3	0
The Laird of Kinnaird's Lands, and the annual in property, within the Barony of Nauchtoun	8	0
The Newtoun	2	0
Innerdivot-Leisles	2	0
Laverock-law	2	0
Saintfoord-Nairn and little Newtoun	3	0
Baledmond	3	0
Balmullo	5	0
Pitcullo	3	0
The Freeland of Lundoirs	1	0
Craig'sland of Friertoun	0	10

Constabulary of Crail

The Barony of Kippo	15	0
Banbot	2	0
Kilduncan	2	0
Crookstoun	1	0
Gilminstoun and Kirkladie, Newhall and Lethom	4	0
Randerstoun	3	0
Cambo and Belshies	4	0
Wolmerstoun	3	0
Pinkertoun and Pittowie	2	0
Balcomie	5	0
Turnalithers	1	0
Redwells	1	0
Airdrie	4	0
West-barns	10	0
Caiplochie	5	0
Pittenweem	20	0
Anstruther	6	0
Balhoufie and Gordonshall	6	0
Balmounts	4	0
Drumrawick	1	0
The Barony of Carnbie, the Mains	6	0
Over-Carnbie	3	0
Carngloun	1	0
The East-side of the Mains of Kellie and Pitkirie	10	0
The West side of the Mains of Kellie	6	0
Bandotho and Bellistoun	1	0

	lib.	s.
Over-Kelly and Greenside	1	0
Pitcorthie Easter	2	0
Abercrumbie	8	0
The Stentoun	0	10
Balcaskie and Evinstoun	8	0
Ardross	10	0
Kilbrackmount	10	0
Kincraig	4	0
Saintfoord	4	0
Riras with the Pertinents	20	0
Lathallan	5	0
Bannetie	1	0
Cassingray	2	0
Stratherlie	2	0
Pittcruvie	1	0
Edindownie	1	10
Giblistoun	4	0
Balcormo	3	0
Balmoukin	3	0
The Lang-side	0	10
The Kirkness	2	0
Leven Quarter		
The Barony of Lundie	20	0
The Barony of Taisses	12	0
Cocklaws	1	0
The Barony of Siras	15	0
The third part of Craighall, Baltullie, and Kingarrock	2	0
The third part of Pitscottie, Easter Pitscottie, and Dura	4	0
Rumgallie	2	0
Wester-Tarvet and half of Balbirnie	10	0
Sipsies	1	0
The two part of Lassindock	2	0
Carskirdo	4	10
Skelpie	1	0
Cults with Baxters Lands	10	0
The Barony of Pitlessie	8	0
Burnturk	3	0
Dounfield	2	0
Clattie	8	0
The Castlefield of Cupar	1	0
Collistoun	1	0
Durie	6	0
Drumaird	5	0
Kennoquhie	5	0
Duniface	3	0
Little Balcurvie	1	0
Meikle Balcurvie	4	0
Dovan	3	0
Auchtermairnie	4	0
Carristoun	2	0
Pyotstoun	1	0
Rothmekye	3	0
Balingall	2	0
Holl Kettle	3	0
Ramsay's Forther	4	0
Wester-Lathrisk	4	0
Easter-Lathrisk	3	0
Orkie	2	0
Fairlie's Lands	1	0
The South side of Balbirnie	2	0
Brunt-toun and Dalginch	10	0
Markinch Easter	5	0
Markinch Wester	2	0
Treatoun and Newtoun	9	0
Lethom	5	0
Balgonie with the Pertinents, viz. Miltoun, Coaltoun, Hospital, and Carnboyis	20	0
Balfour	4	0
The Maw	1	0

	lib.	s.
Weems Easter	7	0
Weems Wester	14	0
Tulliebraik	1	0
The East part of Dysert	12	0
The West part of Dysert	8	0
Ravenscraig, Wilkiston, and Carberrie	2	0
Wester-Touch	1	10
Easter-Touch and Bogie	2	0
Innertiel	5	0
Skedoway	2	0
Easter-Strathore	2	0
Auchmoutie	4	0
Auchmuir	2	0
Kinnimound	1	0
Cardwan	5	0
Arnot	5	0
Strath-henry	9	0
The Barony of Lesly	24	0
The Tenendries of the same, viz.		
Balwhomrie	5	0
Balgothrie	3	0
Pitkevy	2	0
Pitcairn	3	0
Glaslie	3	0
The Ballo	2	0
Conland	5	0
Balindon	3	0
Coule	1	0
Purin	3	0
Kilgowre	1	0
Cash	3	0
Wester Urquhart and Middle Urquhart	3	0
Loppy Urquhart	1	0
Coxstoun	3	0

Innerkeithing Quarter

	lib.	s.
The East part of Innerkeithing Mains	1	0
The Barony of Aberdowr, viz. the Mains, Damhie, Humbies, and the two Balbartons	20	0
Glasmouth with the Pertinents in property	20	0
Wester Bucklevie	2	0
The Castle-rigs of Kinghorn, Tyrie, Seafield, and Grange	10	0
Easter Pittedie	1	0
Wester Pittedie	1	0
Lord Glames' Lands in Kinghorn	10	0
Dalgatie	5	0
Kincarnie	3	0
The Barony of Fordell	16	0
Pittadro	5	0
Balbugie and Castle Lands	7	0
The Daills and Spenserfield	4	0
Spittlefield	2	0
Hillfield, Brodlands and Millands.	10	0
The Barony of Resyth in property	16	0
Balmanno's Beath	2	0
The Loch-head	1	0
Lochgellie	3	0
Lumfennans	3	0
Pitcairns and Towchits	6	0
Raith, Glennistoun and Powguild	3	0
The East part of Lochorshire	3	0

	lib.	s.
Balbedie	2	0
Muirton, Starndy, Pitkenie and Dundonald	2	0
The two part of Easter Newtoun	2	0

Dunfermling Quarter

Pittincrief, Gallowrig and Clunie	3	0
Urquhart	5	0
The two part of Pitfirren	1	10
Pitcourquhais	2	0
Pitdinnis	4	0
The half of Termounth	3	0
Balgonvar	5	0
Blacksauling	1	0
Brodland Sawling, and the Sandy Dub	2	0
Cliesh-Meldrum	2	0
Little Sauling	1	0
Cleish Allardice	2	0
Winton's part of Cliesh	1	0
Janet Kinloch's part of Cliesh	1	0
Kirkness	6	0
The Lands of Carnbeath except Lindsay's part	4	0
Lindsay's part of Cliesh and Carnbeath	5	0
Tichindad	1	0
Alexander Allardice's annual of Carnbeath	2	0
Cowdrain and the Maw	4	0
Tullibol	5	0

Regality of the Church

Auchter-Monsey	8	0
Foodie Easter	2	0
Colluthie	2	0
Kilmainie	12	0
Burghlie	1	0
Newton of Kincaiple	2	0
Nydin Easter, with pertinents of Clatto	2	0
Nydin Wester	1	0
Myretoun	3	0
Blebo with the Pertinents	4	0
Balasse	2	0
Nether-tarvet	2	0
Over-tarvet	3	0
Gladney	2	0
The quarter of Cunoquhie	2	0
Kirkpotie	2	0
Auchter-uther-struther	6	0
Arnydie	0	10
Lathon	1	10
The Muirtoun of Lathocker	2	0
Feddinch	2	0
Dinninno	2	0
Balhaly	3	0
Innergelly	4	0
Kilconquhair	8	0
Muircambus	4	0
Scoonie	10	0
Methill	4	0
Kirkforther	2	0
Cavill	2	0
Torrie	5	0
Carnock	2	0
Urritille	0	10
Kinninmond, Ladedie and Baldinny	13	0
Kinkell with the part of Clatto	2	0
Letham	3	0
Balgrumo	4	0

	lib.	*s.*
Gib's Lands of the Ferry	0	10
The Binnyes	2	0
Lambieletham and Carngowre	9	0
Pitmillie	2	0
Kinkell	4	0
Balmanno	1	10
The Raith	5	0
Clunies	4	0
Balweerie	4	0
Lord Glames' Lands in Tents-Muirs	5	0
Orrock	3	0
Silliebabie	2	0
Logie beside Dunfermling	2	0
Balmain	1	10
Over-Magask	3	0
Nether-Magask	2	0
[1] Total	1358	10

In quorum fidem et testimonium sigilla quorundam baronum super dicta inquisitione existen : una cum sigillo officii Vicecomitis antedicti, presentibus sunt appensa.

Tenet cum principali copia inquisitionis copiat. per M. Georgium Cook, et ad formam ejus copiat. et collationat. per me Jacobum Anderson, Scribam curiæ Vice-comitis [*l. Vicecomitatus*] de Fife.

[1] The Roll in the Haddington Collections and that in Purves' *Revenue of the Scottish Crown* do not include the church lands. Their valuations of the temporality amount to £951, 10s. and £950, 10s. respectively (probably the two amounts should be identical)—considerably less than the £1177, 10s. of 1517.

APPENDIX H

IN PLENA CURIA

THERE is record that in 1266 Adam, Earl of Carrick, acting as depute for Alexander Comyn, Earl of Buchan, Justiciar of Scotland, was present at an agreement made '*coram plena curia de Fiff et de Fothref in mora de Pethcorthin.*'[1] The phrase *plena curia*, as here used, is well known, but its origin has yet to be satisfactorily explained.

Recently Professor Pollard, for England,[2] and Professor Rait, for Scotland,[3] have shown that in the phrase *in pleno parliamento*, *plenus* is indicative rather of the publicity of the proceedings than of the fullness of attendance. And *in plena curia* undoubtedly did come to mean 'in the full face of the court.'[4] For this, support can be found in the many instances, too numerous to be ignored, in which the phrase occurs as *in plana curia*,[5] where if *planus* is not a corruption of *plenus* it can carry no meaning other than 'open'; and, if a corruption, is clearly indicative of the scribe's interpretation of the term.[6] Such phrases as 'in vesag of the plane court'[7] and 'in the face of this present parliament'[8] leave little room for doubt.

Whether this was the prime meaning of the phrase, however, is not so clear. Any suggestion of its connection with courts

[1] MS. Hutton's Collections (National Library), vol. vi. (Fife), No. 14.

[2] *Eng. Hist. Rev.* xxx. 660-662; *Evolution of Parliament* (2nd edn.), 33.

[3] *Parliaments of Scotland*, 420-421.

[4] In the *Leges Quatuor Burgorum* '*in plena curia*' is equated with 'in playn courte' (*A.P.S.* i. 348, c. 75), and in the *Assise Regis David I.* '*in pleno vicecomitatu*' is translated as 'in the playne schirefdome' (*A.P.S.* i. 319, c. 10). Similarly we find 'in plane market' (*A.P.S.* ii. 245, c. 35); and compare 'oppinly Red in plane court' (*supra*, p. 268).

[5] Cf. *Cambuskenneth*, Nos. 64, 89. There are also other variations such as '*in plenaria curia.*' (*Holyrood*, No. 37; Bain's *Calendar*, i. 606.)

[6] See also the later evidence as cited by Professor Rait, *op. cit.* 421.

[7] *Dunfermline Burgh Records* (ed. Beveridge), f. 76 (1497); Bisset, *Rolment of Courtis* (Scot. Text Soc.), i. 314.

[8] *A.P.S.* ii. 293*a*, 293*b*.

held in the open air,[1] or with courts at which the King was personally present,[2] can be dismissed as fanciful. Neither does the phrase refer to a head court, or a court where *all* the suitors were present, as opposed to an intermediate court or a court where only a certain number of those who owed court service were in attendance, since, both in Scotland and in England, we find it applied equally to head and to intermediate courts.[3] Finally, it is not restricted to the royal courts, but is used also of courts baronial and ecclesiastical.[4]

In its early use *plena curia* is definitely indicative of a court that was in some way more authoritative, more legally powerful, than the mere *curia*. Its later use 'when, for any reason, a scribe desired to make a strong and emphatic assertion of the legality of proceedings'[5] is a tradition of the distinction. That is, the *plena curia* must have fulfilled certain well-known conditions requisite for a duly constituted court competent not only to administer justice but also to act as a public registry.

While such conditions would naturally include that the court was held upon due notice at a lawful place and time,[6] it is probable that the principal stress was laid upon the attendance of the proper officials and the requisite number of suitors to make up the body of the court—not *all* suitors, but the legally

[1] So Mr. Malcolm, misinterpreting Professor Pollard. (*S.H.R.* xx. 136-137.)

[2] Chalmers, *Caledonia*, ii. 749 *n.*

[3] Cf. *Eng. Hist. Rev.* xxxix. 401; *Cambuskenneth*, No. 64. When Professor Morris writes 'So the full county court was clearly the open public session attended by the body of those who were customarily under obligation to attend' (*E.C.C.* 99) he lays himself open to misinterpretation, for surely a court attended by those who are customarily under the obligation to be present is a 'fyll court' in the most literal and numerical sense of the word. Yet he agrees that the *plenus comitatus* is *not* the *magnus comitatus* or *comitatus generalis* (*ibid.* 97-98), and that the phrase is applied to one aspect of *any* session of the county (*ibid.* 100). That the phrase had no simple numerical significance is clear. In England, in 1212, the County of Essex declared that it was their custom to outlaw the person demanded '*per quattuor comitatus plenarios*' (*ibid.* 97 *n.*); and a *plena curia* could undoubtedly be continued for *weakness*.

[4] Cf. *A.P.S.* i. 409, No. 10; *Moray*, No. 185. Similarly compare '*in pleno capitulo*,' 1242 (*May*, No. 35).

[5] Rait, *Parliaments of Scotland*, 421.

[6] Cf. the sheriff court of Dumfries held at Penpont in January 1482, where decree was given with 'consent of parties' who affirmed 'the day and place to be lawful.' (*Hist. MSS. Comm.*, 15th Report, App. viii. p. 48, No. 96.) Similarly cf. 'The said day Sir Jhone Ruthyrfurd baily forsaid inquirit at the tenendis beand ther present gif it was lauchfull court tyme of day the quhilk thai said it was.' (*Aberdeen*, i. 389.)

requisite number. And it is in this latter condition that *plenus* may have found its origin.

In 1398 the reasons given by the Bishop of Moray in an appeal against a judgment of the sheriff court of Inverness include '*Quia in tali curia debent esse vicecomes vel locum suum tenens · tres vel quatuor sectatores · clericus de feodo · et judex de feodo · modo in curia illa fuit unus sectator tantum scilicet Johannes filius Michaelis sectator de Avach · nec erat clericus de feodo neque iudex sed ille Johannes michaelis qui fuit solus sectator in curia assumptus fuit in judicem et dedit judicium illud et sic gessit officium curie et judicis.*' [1] The Law 'that is callyt Byrthynsak' lays down that two leal men are necessary for the body of the court,[2] and Skene informs us that 'All courtes by and attour the ordinar persones of the judge, the persewer and the defender suld have certain uther persones and members, quhilkis are called *claves curiæ*, the keyes of the court, that is ane lauchfull officiar or serjand, quha suld summond, attache and arreist the parties; ane lauchfull Clerke quha suld informe the assise, and the dempster, and hes the cure and keiping of the proces; ane sutour quha wardis and pronunces the waird, and interlocutor of the Court; ane dempster or doomester quha gives the doome or sentence definitive, conforme to the information of the Clerke or Judge.' [3]

Similarly in England, Coke lays it down that when there cease to be two freeholders owing suit the manor perishes, whilst in Broke's *Abridgment* it is stated that for a court baron at least two suitors are essential.[4] In the Latin Kingdom of Jerusalem, likewise, two suitors were necessary to constitute a court.[5]

A court of only two suitors seems very small, and older statements appear to indicate that although two were legally sufficient a larger number was usually required. Thus, the early

[1] *Moray*, No. 179. Cf. also '*quod membra curie non erant sufficientia ad terminandum talem causam*' (*ibid.* No. 302).

[2] *A.P.S.* i. 375, c. 13. In 1501 we find a court of a sheriff *in hac parte* held in Edinburgh with only two suitors, of whom one was the dempster. (*Thanes of Cawdor*, 108-111.) Cf. also *A.D.C.* i. 8*a*, where the Lords of Council refer to 'sergiand clerc and soytour' as though these, together with the judge, were sufficient to form a proper court.

[3] *D.V.S.* s.v. *Curia.* Cf. *infra*, App. I.

[4] See Maitland, *Select Pleas in Manorial Courts* (Selden Soc.), Intro. lxi-lxii.

[5] Dodu, *Institutions Monarchiques dans le Royaume Latin de Jérusalem* (Paris, 1894), 284.

fencings by question and answer in the German *Weistümer* frequently run 'Is the bench of suitors full?—If so, the court can proceed to justice,'[1] and probably in early times the fencing of Scottish courts was contingent upon the attendance of the requisite number of suitors, since suits were called before or as part of the ceremony of fencing.[2]

Plena curia, accordingly, was a court sufficiently 'full' to proceed to justice,[3] and since such fullness, as well as such other conditions as lawful place and time, was a prerequisite to fencing, the term, by transference, seems later to have become applicable to any fenced court.[4] Thus the oaths of appointed officers which were to be taken '*in pleno placito*'[5] or 'in playn courte,'[6] are in the present record taken '*ante curie defensacionem et in curia defensata*'[7] or 'in fensyt court.'[8]

An origin such as this would account for the later stress upon the publicity and legality of the proceedings. Anything decided or affirmed *in plena curia* had behind it the testimony (and authority) of the body of a legally constituted court: a contrast to hole-in-the-corner work by the court officials only. The later interpretation into 'in the full face of the court' would in such circumstances be only natural.

[1] Burchard, *Die Hegung der deutschen Gerichte* (Leipzig, 1893), 138.

[2] Cf. *A.P.S.* i. 707. Note the use of the phrase 'vollen gehegten Gerichte' in Burchard, *op. cit.* 107. And see *infra*, App. I.

[3] Cf. the use of the word *plenum* to-day to indicate a judicial bench sufficiently full to give decision. Similarly it may be that in early times the 'Council' formed the necessary legal quorum for a *plenum parliamentum*; the evidence tends to support the contention, which would thereby account for such phrases as '*in concilio nostro in pleno parliamento*.' (*R.M.S.* i. 293.)

[4] Cf. the addition of the phrase 'and no oppositioun maid in the contrair hereof' to the fencing in *Spalding Club Misc.* v. 219. That a court lawfully fenced is a duly constituted court capable of proceeding to justice is clear from the charge of the Lords of Council to the sheriff of Ayr to 'sett and affirm' a court for the hearing of a particular case. (*A.D.C.* xxiv. f. 66.)

[5] *A.P.S.* i. 347, c. 71.

[6] *Ibid.* ii. 17, c. 1.

[7] *Supra*, pp. 40, 43.

[8] *Supra*, p. 176.

APPENDIX I

'THE MANER TO HAULD COURTIS'[1]

In the first quhar courtis are to be haldin outher within the tolbuith of the principall town of the schirefdome within regalitie barony or burcht etc. Thare suld be assemblit and gadderit togidder all the tennentis frehalderis & utheris duelling within the regalitie barony or burcht Than the Lord schiref barrown bailȝie of burcht or thair deputtis sall sit doun in Jugment takand with thame thair clerk seriand and dempstar quhilkis ar the principall memberis of court without quhome na court may be lauchfullie fensit and ony ane of thame be absent Than sall the clerk inroll the court in his buik in this maner sayand The court of etc. haldin in the tolbuith or at the mercat crose of etc. The etc. day of etc. The ȝeir of god etc. Be AB Lord or baillie of etc. or thair deputtis The court affirmitt swittis callit The assyise sworne and admittit Than quhen the clerk hes Inrollit the court in maner foirsaid The seriand sall stand up with his wand in his hand And fense the court First call the Fre tennentis be the names of the landis and than say · I defend and forbid in our souerane Lord and ladeis name And in name and behalf of AB Lord baroun or bailȝie off etc. and his deputtis heir present that na man trubill this court nor tak speiche upon hand to speik ane for ane uther without leif askit and gewin under the panes of law The dampster sayand and that I gif for dome etc. Than sall the seriand call agane all the tennentis frehalderis & utheris Anis twyse thryse sayand compeir and enter as ȝe that aucht swyte and presence in this court as the heid court For the landis of etc Anis twyise thryse ·

[1] Taken from a MS. addition to a volume of the *Black Acts* (1566) sold from the Britwell Court Library at Sotheby's, March 1926. The hand is a clerk's hand of the latter half of the sixteenth century, but the note clearly belongs to the reign of Henry and Mary. Legal memoranda of this nature are fairly common, and several are to be found in the National Library (*e.g.* Advocates Library Press Mark MSS. 25. 4. 14; 25. 5. 7; 25. 5. 9). See also Skene, *Forme and Maner of Baron Courts*, c. 1. The present note contains several interesting statements which support and illustrate certain points to which attention has been called in the *Introduction*.

Than sall the clerk wryte in his buik all thame that compeiris nocht absentis And samony as enteris nocht befoir the arysing of the court the dempstar sall gif dome one thame sayand ABCD [this] court schawis for law And I gif for dome that ȝe and ilkane of ȝow ar in ane unlaw and amersiament of court sic as ȝe aucht to tyne upoun law for ȝour absens fra this court As the heid court as ȝe that aucht suit and presens to the samin for ȝour Landis of etc And that I gif for dome etc.

Memorandum this dome upon absentis aucht nocht to be pronuncit quhill a lyttill befoir the arysing of the court he aucht nocht to be unlawit etc.

The court beand fensit and ordourit in maner foirsaid the clerk sall reid throw the haill rolment and proces of the last court haldin last befoir sua that all materis tharintill that war continewit outher in houp of agreance or utherwayis may be first decydit and endit and the auld rolmentis bypast first clengit and endit befoir thai proceid in ony new materis And thairefter to proceid and ressaue in billis or complaintis or actionis quhatsumeuir that ony partie hes to say aganis utheris etc. Than gif neid beis to cheise ane Inqueist and assyise of maist honest and famous men of the barony to the nowmer of xiij xv xvij xix or xxj Rather ma nor the Number Incais ony persoun being persewit to haif sum relivant exceptioun to say aganis or set sum of the assyise or inqueist that utheris may be pute in thair place and thair aythis tane as use is etc And gif ony personis ar to be callit or persewit to be accusit of ony actionis or crymes Thay sould be callit to heir the inqueist chosin and sworne sua that thai may haue place to except and say, aganis ony of the personis of inqueist Aganis quhome thai may haue ony lauchfull exceptioun and relivant caus to set thame of thair assyise etc And gif the persoun accusit or persewit can nocht schaw furth his awin caus in his defens so weill as neid wer he aucht to haif ane prelocutour or afoir speikar to help him gif he requyris the samin And so aucht the persewar lykwais gif he requyris etc.

To creat ony member of Court bailȝe or utheris etc.

The bailȝe sall call him in Jugment quhen the court is fensit and the clerk sall hald ane buik to him quhilk he sall tuiche with his rycht hand and say be this buik and haly buik be all that god maid etc I sall lelilie & trewlie use and exerce the office of etc And do iustice till all parteis equallie as effeiris ay and quhill I be dischargit etc.

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† Sandford (or St. Fort) in Forgan parish should be distinguished from Sandford (or St. Ford) in Kilconquhar parish. It is almost impossible to distinguish the two places in the present record, though it should be noted that the Nairns and the Hays came from Sandford in Forgan parish and the Dudingstons from Sandford in Kilconquhar parish.

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Edinburgh: Printed by T. and A. Constable Ltd

REPORT OF THE FORTY-FIRST ANNUAL MEETING OF THE SCOTTISH HISTORY SOCIETY

The Forty-First Annual Meeting of the Society was held on Saturday, 10th December 1927, in Dowell's Rooms, George Street, Edinburgh,—Sir Hugh Arthur Rose in the Chair.

The Report of the Council was as follows:—

The Council are glad to report that in response to an appeal issued earlier in the year 130 new members and 11 libraries have been enrolled. During the past year 22 members have died or resigned, 2 libraries have ceased to contribute, and the membership now stands at 530 with 125 libraries in addition. It is hoped that members will endeavour to maintain the membership of the Society and bring its claims to the notice of friends.

Since the last General Meeting the *Scottish Correspondence of Mary of Lorraine*, 1543-60, a most valuable contribution to the history of the period, has been issued to members for the year 1926-27. *The Diary of Thomas Cuningham*, the second volume for that year, is almost ready, and will be issued shortly. The thanks of the Society are due to Dr. Cameron and Miss Courthope.

For the year 1927-28 it is proposed to publish the *Sheriff Court Book of Fife*, 1515-22, edited by Mr. W. C. Dickinson. The text is in type, and it is hoped to issue it in the spring of 1928. Sir Bruce Seton has completed his *Prisoners of the '45*, and about one-half of it is in type. It is expected that this work will run to three volumes, one of which will be issued during the current year.

Miss Warrender has kindly placed at the disposal of the Society the Warrender Papers, which throw much valuable light on the history of the reign of James VI. With the exception of material relating to the execution of Mary Queen of Scots they have not been published. They will be edited by Professor Rait and Dr. Cameron. A fifth Miscellany volume is contemplated which will include a selection from the papers of Sir Robert Gordon-Gilmour of Liberton and Craigmillar, Marchmont Letters relating to the '45, and probably some interesting diplomatic material illustrative of Franco-Scottish relations in the Flodden period.

Since the last General Meeting the Reorganisation of Offices (Scotland) Bill was re-introduced into Parliament. The Council regret to find that the abolition of the office of Deputy Clerk Register is still contemplated, but they note with satisfaction that the Bill now provides for placing all the Register House Departments, including the Record Office, under one head, a reform which ought to produce economy and also secure efficiency in the control and administration of the Public Records of Scotland.

The Members of Council retiring by rotation are Sir James Balfour Paul, Dr. D. Hay Fleming and Mr. William Angus. They are recommended for re-election. To fill the vacancy caused by the lamented death of Sir Philip Hamilton-Grierson, who rendered distinguished service to Scottish institutional history, the Council suggest the name of Mr. R. C. Reid.

The accounts of the Treasurer, appended in abstract, show a credit balance of £562, 18s. 5d. on 11th November 1927.

On the motion of the Chairman, seconded by Mr. J. R. N. Macphail, the Report was adopted,

The Rev. George Christie, D.D., moved the re-election of the Hon. Treasurer, the Secretaries, and the members of Council retiring by rotation, and also the election of Mr. R. C. Reid to fill the vacancy caused by the death of Sir Philip Hamilton-Grierson.

ABSTRACT Account Charge and Discharge of the Intromissions of the Honorary Treasurer for the year from 12th November 1926 to 11th November 1927.

CHARGE.

I. Funds as at close of last Account—			
1. Sums on Deposit Receipt with Bank of Scotland, George Street, Edinburgh, .		£670 0 0	
2. Balance on Account Current Do., .		87 11 0	
		£757 11 0	
Less—Balance due to Messrs. T. & A. Constable Ltd., . . .		255 2 10	
		£502 8 2	
II. Subscriptions received—			
1. Members, . . .	£538 13 0		
2. Libraries, . . .	130 4 0		
		668 17 0	
III. Past Publications sold to Members, . .		36 19 3	
IV. Interest on Deposit Receipts, ...		25 17 6	
		£1,234 1 11	

DISCHARGE.

I. Cost of Publications—		
1. *The Scottish Correspondence of Mary of Lorraine*—		
Composition, printing, binding, etc., .	£386 14 11	
Less—Already paid to account, . .	164 7 6	
	£222 7 5	
Preparation of Index, . . .	21 0 0	
	£243 7 5	
Carry forward, . .	£243 7 5	

	Brought forward, . .				£243	7 5
2.	*Diary of Thomas Cuningham, Conservator at Campvere*, 1640-54—					
	Composition to date, .	£88	7	6		
	Less—Already paid to account, . . .	88	7	6		
					...	
3.	*Sheriff Court Book of Fife*, 1515-22— Composition to date, . . .				178	10 0
4.	*Supplementary List of Persons concerned in the Rising of* 1745— Composition to date, . . .				172	10 0
5.	Carriage and postages, ...				21	10 7
					£615	18 0
II.	General printing and stationery, . . .				24	15 3
III.	Income-tax on deposit receipt interest, . .				8	11 0
IV.	Miscellaneous payments, ...				21	19 3
V.	Funds as at the close of this Account—					
	1. Sum on deposit receipt with Bank of Scotland, George Street, Edinburgh, .	£1104	4	2		
	2. Balance on Account Current with Do., . .	72	15	0		
		£1176	19	2		
	Less—Balance due to Messrs. T. & A. Constable Ltd., .	614	0	9		
					562	18 5
					£1234	1 11

EDINBURGH, 1*st December* 1927.—I have examined the Accounts of the Honorary Treasurer of the Scottish History Society for the period from 12th November 1926 to 11th November 1927, of which the foregoing is an Abstract, and I find the same to be correctly stated and sufficiently vouched, closing with a Balance on Deposit Receipt with the Bank of Scotland, George Street, Edinburgh, of One thousand one hundred and four pounds four shillings and twopence, and a Balance at the credit of the Society's Account Current with the said bank of Seventy-two pounds fifteen shillings, less Balance due to Messrs. T. & A. Constable Ltd. of Six hundred and fourteen pounds and ninepence.

WILLIAM K. DICKSON.

Scottish History Society.

THE EXECUTIVE.

1927-1928.

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Chairman of Council.

James MacLehose, LL.D.

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The Hon. Lord Sands, LL.D.
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William K. Dickson, LL.D.
Sir James Balfour Paul, C.V.O., LL.D.
D. Hay Fleming, LL.D.

Corresponding Members of Council.

Prof. Sir C. H. Firth, LL.D., Oxford; Prof. C. Sanford Terry, Litt.D., Mus.D., D.Litt., LL.D., Aberdeen.

Hon. Treasurer.

John M. Howden, D.L., C.A., 8 York Place, Edinburgh.

Interim Hon. Secretary.

H. W. Meikle, D.Litt., National Library of Scotland, Parliament Square, Edinburgh.

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1. The object of the Society is the discovery and printing, under selected editorship, of unpublished documents illustrative of the civil, religious, and social history of Scotland. The Society will also undertake, in exceptional cases, to issue translations of printed works of a similar nature, which have not hitherto been accessible in English.

2. The affairs of the Society shall be managed by a Council, consisting of a Chairman, Treasurer, Secretary, and twelve elected Members, five to make a quorum. Three of the twelve elected Members shall retire annually by ballot, but they shall be eligible for re-election.

3. The Annual Subscription to the Society shall be One Guinea. The publications of the Society shall not be delivered to any Member whose Subscription is in arrear, and no Member shall be permitted to receive more than one copy of the Society's publications.

4. The Society will undertake the issue of its own publications, *i.e.* without the intervention of a publisher or any other paid agent.

5. The Society normally issues yearly two octavo volumes of about 320 pages each.

6. An Annual General Meeting of the Society shall be held at the end of October, or at an approximate date to be determined by the Council.

7. Two stated Meetings of the Council shall be held each year, one on the last Tuesday of May, the other on the Tuesday preceding the day upon which the Annual General Meeting shall be held. The Secretary, on the request of three Members of the Council, shall call a special meeting of the Council.

8. Editors shall receive 20 copies of each volume they edit for the Society.

9. The owners of Manuscripts published by the Society will also be presented with a certain number of copies.

10. The Annual Balance-Sheet, Rules, and List of Members shall be printed.

11. No alteration shall be made in these Rules except at a General Meeting of the Society. A fortnight's notice of any alteration to be proposed shall be given to the Members of the Council.

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2. Diary and Account Book of William Cunningham of Craigends, 1673-1680. Edited by the Rev. James Dodds, D.D.

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3. Grameidos libri sex: an heroic poem on the Campaign of 1689, by James Philip of Almerieclose. Translated and edited by the Rev. A. D. Murdoch.
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5. Diary of the Rev. John Mill, Minister in Shetland, 1740-1803. Edited by Gilbert Goudie.
6. Narrative of Mr. James Nimmo, a Covenanter, 1654-1709. Edited by W. G. Scott-Moncrieff.
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